

**To:** Bodine, Susan[bodine.susan@epa.gov]; Starfield, Lawrence[Starfield.Lawrence@epa.gov]  
**Cc:** Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; Koslow, Karin[Koslow.Karin@epa.gov]; Fogarty, Johnpc[Fogarty.Johnpc@epa.gov]; Makepeace, Caroline[Makepeace.Caroline@epa.gov]  
**From:** Porter, Amy[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A3C7DFBB2E445A7A6D37AABBE73D06B-APORTE02]  
**Sent:** Thur 7/18/2019 9:29:07 PM (UTC)  
**Subject:** RE: Draft email to Claire Murray re SEPs

Resending per our converstation.

---

**From:** Porter, Amy  
**Sent:** Wednesday, June 05, 2019 3:00 PM  
**To:** Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>  
**Cc:** Rosemarie Kelley (Kelley.Rosemarie@epa.gov) <Kelley.Rosemarie@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Johnpc Fogarty <Fogarty.Johnpc@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>  
**Subject:** Draft email to Claire Murray re SEPs

Susan – Please see draft email below for you to send to Claire Murray as discussed. Please let us know if you have any questions.  
Thanks,  
Amy

Claire—

Ex. 5 AC/DP

# Ex. 5 AC/DP

Please let me know if I can provide any further information.

Susan

**To:** Starfield, Lawrence[Starfield.Lawrence@epa.gov]  
**From:** Bodine, Susan[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8C2CC6086FCC44C3BE6B5D32B262D983-BODINE, SUS]  
**Sent:** Thur 6/27/2019 5:01:14 PM (UTC)  
**Subject:** FW: **Ex. 5 AC & Ex. 7(a)** CDs

FYSA

**From:** Bodine, Susan  
**Sent:** Thursday, June 27, 2019 12:49 PM  
**To:** Clark, Jeffrey (ENRD) <jbc1@usdoj.gov>  
**Subject:** **Ex. 5 AC & Ex. 7(a)** CDs  
**Importance:** High

# Ex. 5 AC/DP/AWP & Ex. 7(a)

Susan

Susan Parker Bodine  
Assistant Administrator  
Office of Enforcement and Compliance Assurance  
202-564-2440

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

**To:** Starfield, Lawrence[Starfield.Lawrence@epa.gov]  
**From:** Kelley, Rosemarie[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23B7C900323047FCA012DF62C58C4D22-RKELLEY]  
**Sent:** Fri 9/27/2019 3:18:29 PM (UTC)  
**Subject:** RE: **Ex. 5 AC/DP**

Larry—

Your revisions really improved the email. Thanks for taking the time to do that.

Rosemarie

**From:** Starfield, Lawrence <Starfield.Lawrence@epa.gov>  
**Sent:** Friday, September 27, 2019 10:06 AM  
**To:** Bodine, Susan <bodine.susan@epa.gov>  
**Cc:** Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>  
**Subject:** FW: **Ex. 5 AC/DP**

Susan,

Below are suggested changes to the draft note to DOJ re **Ex. 5 AC/DP**

For your consideration. (I'm cc'ing Rosemarie in case she has additional suggestions.)

Larry

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.  
\*\*\*\*\*

**From:** Susan Bodine  
**To:** Claire Murray  
**Thru:** Jeff Clark

**Ex. 5 AC/AWP/DP Ex 7a**

# **Ex. 5 AC/AWP/DP Ex 7a**

Please let me know if you would like to discuss this further. I appreciate your consideration of this request.

**To:** Bodine, Susan[bodine.susan@epa.gov]  
**Cc:** Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Traylor, Patrick[traylor.patrick@epa.gov]; Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; Pollins, Mark[Pollins.Mark@epa.gov]  
**From:** Theis, Joseph[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A559A9BF75F14D13B38275CD3757C40E-JTHEIS02]  
**Sent:** Fri 4/5/2019 8:28:23 PM (UTC)  
**Subject:** RE: [Ex. 5 AC/AWP/DP Ex 7a]

Thanks. Very helpful to get your additional feedback. I will let the team know.  
- Joe

Joseph G. Theis  
Associate Director  
Water Enforcement Division  
Office of Enforcement and Compliance Assurance  
U.S. EPA (2243A)  
1200 Pennsylvania Ave, NW  
Washington, D.C. 20460  
(202)564-4053

This email may contain deliberative, attorney-client, attorney work product or otherwise privileged material. Do not release under FOIA without appropriate review. If this email has been received by you in error, you are instructed to delete it from your machine and all storage media whether electronic or hard copy.

**From:** Bodine, Susan  
**Sent:** Friday, April 05, 2019 4:23 PM  
**To:** Theis, Joseph <Theis.Joseph@epa.gov>  
**Cc:** Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Pollins, Mark <Pollins.Mark@epa.gov>  
**Subject:** RE: [Ex. 5 AC/AWP/DP Ex 7a]

Results of DOJ call this morning:

Sessions Memo

Ex. 5 AC//DP

Ex. 5 AC/AWP/DP Ex 7a

# Ex. 5 AC/AWP/DP Ex 7a

**From:** Theis, Joseph

**Sent:** Friday, April 5, 2019 2:51 PM

**To:** Bodine, Susan <[bodine.susan@epa.gov](mailto:bodine.susan@epa.gov)>

**Cc:** Starfield, Lawrence <[Starfield.Lawrence@epa.gov](mailto:Starfield.Lawrence@epa.gov)>; Traylor, Patrick <[traylor.patrick@epa.gov](mailto:traylor.patrick@epa.gov)>; Kelley, Rosemarie <[Kelley.Rosemarie@epa.gov](mailto:Kelley.Rosemarie@epa.gov)>; Pollins, Mark <[Pollins.Mark@epa.gov](mailto:Pollins.Mark@epa.gov)>; Buterbaugh, Kristin <[Buterbaugh.Kristin@epa.gov](mailto:Buterbaugh.Kristin@epa.gov)>; Sullivan, Greg <[Sullivan.Greg@epa.gov](mailto:Sullivan.Greg@epa.gov)>; Bahk, Benjamin <[Bahk.Benjamin@epa.gov](mailto:Bahk.Benjamin@epa.gov)>; Fisher, Mike <[Fisher.Mike@epa.gov](mailto:Fisher.Mike@epa.gov)>

**Subject:** RE: Ex. 5 AC/AWP/DP Ex 7a

O.K. Thanks Susan. On another matter, we understand that you spoke to Jeff Clark.

Ex. 5 AC/AWP/DP Ex 7a

Ex. 5 AC/AWP/DP Ex 7a

- Joe

Joseph G. Theis

Associate Director

Water Enforcement Division

Office of Enforcement and Compliance Assurance

U.S. EPA (2243A)

1200 Pennsylvania Ave, NW

Washington, D.C. 20460

(202)564-4053

This email may contain deliberative, attorney-client, attorney work product or otherwise privileged material. Do not release under FOIA without appropriate review. If this email has been received by you in error, you are instructed to delete it from your machine and all storage media whether electronic or hard copy.

**To:** Starfield, Lawrence[Starfield.Lawrence@epa.gov]  
**From:** Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]  
**Sent:** Thur 5/2/2019 5:10:57 PM (UTC)  
**Subject:** Fwd: Follow-Up Note on SEPs

Self

Sent from my iPhone

Begin forwarded message:

**From:** "Bodine, Susan" <bodine.susan@epa.gov>  
**Date:** May 2, 2019 at 1:02:28 PM EDT  
**To:** "jesse.panuccio@usdoj.gov" <jesse.panuccio@usdoj.gov>  
**Cc:** "Clark, Jeffrey (ENRD)" <jbc1@usdoj.gov>, "bruce.gelber@usdoj.gov" <bruce.gelber@usdoj.gov>, "Starfield, Lawrence" <Starfield.Lawrence@epa.gov>  
**Subject:** Follow-Up Note on SEPs

Jesse,

**Ex. 5 AC/DP**



# **Ex. 5 AC/DP**

Thank you for your partnership with EPA during your time at DOJ.

Susan

Susan Parker Bodine  
Assistant Administrator  
Office of Enforcement and Compliance Assurance  
202-564-2440

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

**To:** Bailey-Morton, Ethel[Bailey-Morton.Ethel@epa.gov]  
**From:** Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]  
**Sent:** Thur 5/2/2019 5:10:13 PM (UTC)  
**Subject:** Fwd: Follow-Up Note on SEPs

Please print and put it on my chair. Thanks.

Sent from my iPhone

Begin forwarded message:

**From:** "Bodine, Susan" <bodine.susan@epa.gov>  
**Date:** May 2, 2019 at 1:02:28 PM EDT  
**To:** "jesse.panuccio@usdoj.gov" <jesse.panuccio@usdoj.gov>  
**Cc:** "Clark, Jeffrey (ENRD)" <jbc1@usdoj.gov>, "bruce.gelber@usdoj.gov" <bruce.gelber@usdoj.gov>, "Starfield, Lawrence" <Starfield.Lawrence@epa.gov>  
**Subject:** Follow-Up Note on SEPs

Jesse,

**Ex. 5 AC/DP**

# **Ex. 5 AC/DP**

Thank you for your partnership with EPA during your time at DOJ.

Susan

Susan Parker Bodine  
Assistant Administrator  
Office of Enforcement and Compliance Assurance  
202-564-2440

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

**To:** Gelber, Bruce (ENRD)[Bruce.Gelber@usdoj.gov]  
**From:** Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]  
**Sent:** Fri 9/27/2019 9:50:16 PM (UTC)  
**Subject:** FW: **Ex. 5 AC/DP**

**Ex. 5 AC / Ex. 7(A)**

FYI.

**From:** Bodine, Susan  
**Sent:** Friday, September 27, 2019 4:43 PM  
**To:** Clark, Jeffrey (ENRD) <ibc1@usdoj.gov>  
**Subject:** **Ex. 5 AC/DP**

Jeff,

**Ex. 5 AC/DP**

Please let me know if you need additional information.

Susan

Susan Parker Bodine  
Assistant Administrator  
Office of Enforcement and Compliance Assurance  
202-564-2440

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\*\*\*\*\*

**From:** Susan Bodine  
**To:** Claire Murray  
**Thru:** Jeff Clark

**Ex. 5 AC/AWP/DP, Ex. 7(A)**

# **Ex. 5 AC/AWP/DP, Ex. 7(A)**

**To:** Bodine, Susan[bodine.susan@epa.gov]; Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Traylor, Patrick[traylor.patrick@epa.gov]  
**Cc:** Mirza, Sabah[Mirza.Sabah@epa.gov]  
**From:** Shiffman, Cari[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=645F74D11EEC4EBA9337CB5734AD6098-SHIFFMAN, CARI]  
**Sent:** Fri 8/9/2019 7:14:39 PM (UTC)  
**Subject:** Scanned Signed SEP Memo  
Supplemental Environmental Projects in Settlements with State and Local Governments (Aug. 9, 2019).pdf

Susan,

Attached is the signed SEP memo.

Claire.Murray@usdoj.gov  
[jbc1@usdoj.gov](mailto:jbc1@usdoj.gov)

Thanks,

Cari Shiffman, Chief of Staff  
U.S. Environmental Protection Agency  
Office of Enforcement and Compliance Assurance  
Office: (202) 564-2898 | Mobile: (202) 823-3277



Message

---

**From:** Greenwald, Michael [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FFD5673884C44727A7964EDAE166B90A-GREENWALD,]  
**Sent:** 8/1/2017 6:16:31 PM  
**To:** McGuigan, David [McGuigan.David@epa.gov]; Field, Stephen [Field.Stephen@epa.gov]  
**CC:** Dinsmore, Andrew [Dinsmore.Andrew@epa.gov]; Day, Christopher [Day.Christopher@epa.gov]; Harsh, Chad [Harsh.Chad@epa.gov]; Duchovnay, Andrew [Duchovnay.Andrew@epa.gov]  
**Subject:** Ex. 5 Attorney Client (AC), Ex. 5 Attorney Work Product (AWP), Ex. 7(A)

**Ex. 5 Attorney Client (AC), Ex. 5 Attorney Work Product (AWP), Ex. 7(A)**

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**From:** McGuigan, David  
**Sent:** Tuesday, August 01, 2017 2:13 PM  
**To:** Field, Stephen <Field.Stephen@epa.gov>  
**Cc:** Dinsmore, Andrew <Dinsmore.Andrew@epa.gov>; Day, Christopher <Day.Christopher@epa.gov>; Harsh, Chad <Harsh.Chad@epa.gov>; Greenwald, Michael <Greenwald.Michael@epa.gov>; Duchovnay, Andrew <Duchovnay.Andrew@epa.gov>

**Ex. 5 Attorney Client (AC), Ex. 5 Attorney Work Product (AWP), Ex. 7(A)**

**Ex. 5 Attorney Client (AC), Ex. 5 Attorney Work Product (AWP), Ex. 7(A)**

**Ex. 5 Attorney Client (AC), Ex. 5 Attorney Work Product (AWP), Ex. 7(A)**

David B. McGuigan, Ph.D.  
Associate Director  
Office of NPDES Permits and Enforcement  
Water Protection Division  
Tel: 215-814-2158  
Cell: 215-514-9651

**From:** Field, Stephen

**Sent:** Tuesday, August 01, 2017 12:09 PM

**To:** McGuigan, David <McGuigan.David@epa.gov>

**Cc:** Dinsmore, Andrew <Dinsmore.Andrew@epa.gov>; Day, Christopher <Day.Christopher@epa.gov>; Lueckenhoff, Dominique <Lueckenhoff.Dominique@epa.gov>; Harsh, Chad <Harsh.Chad@epa.gov>

Ex. 5 Attorney Client (AC), Ex. 5 Attorney Work Product (AWP), Ex. 7(A)

**Ex. 5 Attorney Client (AC), Ex. 5 Attorney Work Product (AWP), Ex. 7(A)**

**From:** McGuigan, David

**Sent:** Tuesday, August 01, 2017 11:21 AM

**To:** Field, Stephen <Field.Stephen@epa.gov>

**Cc:** Dinsmore, Andrew <Dinsmore.Andrew@epa.gov>; Schadel, Chuck <Schadel.Chuck@epa.gov>; Day, Christopher <Day.Christopher@epa.gov>; Lueckenhoff, Dominique <Lueckenhoff.Dominique@epa.gov>; Harsh, Chad <Harsh.Chad@epa.gov>

Ex. 5 Attorney Client (AC), Ex. 5 Attorney Work Product (AWP), Ex. 7(A)

**Ex. 5 Attorney Client (AC), Ex. 5 Attorney Work Product (AWP), Ex. 7(A)**

Ex. 5 Attorney Client (AC), Ex. 5 Attorney Work Product (AWP), Ex. 7(A)

David

David B. McGuigan, Ph.D.  
Associate Director  
Office of NPDES Permits and Enforcement  
Water Protection Division  
Tel: 215-814-2158  
Cell: 215-514-9651

---

**From:** Field, Stephen

**Sent:** Tuesday, August 01, 2017 11:13 AM

**To:** McGuigan, David <McGuigan.David@epa.gov>

**Cc:** Dinsmore, Andrew <Dinsmore.Andrew@epa.gov>; Schadel, Chuck <Schadel.Chuck@epa.gov>; Day, Christopher <Day.Christopher@epa.gov>; Lueckenhoff, Dominique <Lueckenhoff.Dominique@epa.gov>

Ex. 5 Attorney Client (AC), Ex. 5 Attorney Work Product (AWP), Ex. 7(A)

**Ex. 5 Attorney Client (AC), Ex. 5 Attorney Work Product (AWP), Ex. 7(A)**

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**From:** McGuigan, David

**Sent:** Tuesday, July 18, 2017 12:05 PM

**To:** Field, Stephen <Field.Stephen@epa.gov>

**Cc:** Dinsmore, Andrew <Dinsmore.Andrew@epa.gov>; Schadel, Chuck <Schadel.Chuck@epa.gov>; Kier, Lori <Kier.Lori@epa.gov>; Jamieson, Cheryl <Jamieson.Cheryl@epa.gov>; Day, Christopher <Day.Christopher@epa.gov>; Lueckenhoff, Dominique <Lueckenhoff.Dominique@epa.gov>

**Subject:** Ex. 5 Attorney Client (AC), Ex. 5 Attorney Work Product (AWP), Ex. 7(A)

**Ex. 5 Attorney Client (AC), Ex. 5 Attorney Work Product (AWP), Ex. 7(A)**

**Ex. 5 Attorney Client (AC), Ex. 5 Attorney Work Product (AWP), Ex. 7(A)**

David

David B. McGuigan, Ph.D.  
Associate Director  
Office of NPDES Permits and Enforcement  
Water Protection Division  
Tel: 215-814-2158  
Cell: 215-514-9651

Message

---

**From:** Greenwald, Michael [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FFD5673884C44727A7964EDAE166B90A-GREENWALD,]  
**Sent:** 4/24/2019 4:50:49 PM  
**To:** Duer, Donna (ENRD) [Donna.Duer@usdoj.gov]; Maslowski, Steven [Maslowski.Steven@epa.gov]; Lazos, Pamela [Lazos.Pamela@epa.gov]

**Subject:**

**Attachments:**

**Ex. 5 AC/AWP**

**Ex. 5 AC/AWP**

Mike Greenwald  
USEPA, Region 3  
NPDES Enforcement Section  
1650 Arch Street (3ED32)  
Philadelphia, PA 19103  
215-814-2398

Message

---

**From:** Lazos, Pamela [Lazos.Pamela@epa.gov]

**Sent:** 10/15/2019 8:47:24 PM

**To:** Lazos, Pamela [Lazos.Pamela@epa.gov]

**Subject:**

**Attachments:**

**Ex. 5 AC/AWP, Ex. 7(a)**

**Flag:** Follow up

Message

---

**From:** Maslowski, Steven [Maslowski.Steven@epa.gov]  
**Sent:** 11/20/2018 6:40:47 PM  
**To:** Lazos, Pamela [Lazos.Pamela@epa.gov]; Duer, Donna (ENRD) [Donna.Duer@usdoj.gov]  
**Subject:** RE: comments on the CD  
**Attachments:**

**Ex. 5 AC/AWP/DP, 7(A)**

Here are my comments on the CD.

Steve Maslowski  
NPDES Enforcement Branch  
EPA Region III  
215-814-2371

---

**From:** Lazos, Pamela  
**Sent:** Friday, November 16, 2018 12:30 PM  
**To:** Duer, Donna (ENRD) <Donna.Duer@usdoj.gov>; Maslowski, Steven <Maslowski.Steven@epa.gov>; Greenwald, Michael <Greenwald.Michael@epa.gov>  
**Subject:** comments on the CD

Such as they are.  
Have a nice weekend,  
pl

Message

---

**From:** Coe, Mary [Coe.Mary@epa.gov]  
**Sent:** 4/25/2018 2:46:34 PM  
**To:** Day, Christopher [Day.Christopher@epa.gov]; Lazos, Pamela [Lazos.Pamela@epa.gov]  
**CC:** Frankenthaler, Douglas [Frankenthaler.Douglas@epa.gov]  
**Subject:** **Ex. 5 AC/AWP**

THX. That sounds better!!!

M

---

**From:** Day, Christopher  
**Sent:** Wednesday, April 25, 2018 9:23 AM  
**To:** Coe, Mary <Coe.Mary@epa.gov>; Lazos, Pamela <Lazos.Pamela@epa.gov>  
**Cc:** Frankenthaler, Douglas <Frankenthaler.Douglas@epa.gov>  
**Subject:** **Ex. 5 AC/AWP**

# Ex. 5 AC/AWP

---

**From:** Coe, Mary  
**Sent:** Tuesday, April 24, 2018 6:09 PM  
**To:** Lazos, Pamela <Lazos.Pamela@epa.gov>; Day, Christopher <Day.Christopher@epa.gov>  
**Subject:** **Ex. 5 AC/AWP**



Thx

m

Mary B. Coe  
Regional Counsel  
US EPA Region III  
1650 Arch Street  
Philadelphia, PA 19103  
215-814-2617

Message

---

**From:** Frankenthaler, Douglas [Frankenthaler.Douglas@epa.gov]  
**Sent:** 4/25/2018 11:48:33 AM  
**To:** Lazos, Pamela [Lazos.Pamela@epa.gov]; Coe, Mary [Coe.Mary@epa.gov]; Day, Christopher [Day.Christopher@epa.gov]  
**Subject:** **Ex. 5 AC/AWP**

## **Ex. 5 AC/AWP**

---

**From:** Lazos, Pamela  
**Sent:** Tuesday, April 24, 2018 6:45 PM  
**To:** Coe, Mary <Coe.Mary@epa.gov>; Day, Christopher <Day.Christopher@epa.gov>; Frankenthaler, Douglas <Frankenthaler.Douglas@epa.gov>  
**Subject:** RE: **Ex. 5 AC/AWP**

### **Ex. 6 Personal Privacy (PP)**

I think it's Doug's.

---

**From:** Coe, Mary  
**Sent:** Tuesday, April 24, 2018 6:09 PM  
**To:** Lazos, Pamela <Lazos.Pamela@epa.gov>; Day, Christopher <Day.Christopher@epa.gov>  
**Subject:** **Ex. 5 AC/AWP**

Thx

m

Mary B. Coe  
Regional Counsel  
US EPA Region III  
1650 Arch Street  
Philadelphia, PA 19103  
215-814-2617

Message

---

**From:** Prichard, Gary [prichard.gary@epa.gov]  
**Sent:** 12/17/2018 6:25:54 PM  
**To:** Kuefler, Patrick [kuefler.patrick@epa.gov]  
**CC:** Heger, Michelle [heger.michelle@epa.gov]  
**Subject:**  
**Attachments:**

**Ex. 5 AC/AWP**

**Ex. 5 AC/AWP**

Thanks,  
Gary

---

**From:** Kuefler, Patrick  
**Sent:** Monday, December 17, 2018 12:09:58 PM  
**To:** Prichard, Gary  
**Cc:** Heger, Michelle  
**Subject:**

**Ex. 5 AC/AWP**

**Ex. 5 AC/AWP**

Patrick F. Kuefler  
Chief  
Water Enforcement &  
Compliance Assurance Branch

312 353-6268

Message

---

**From:** Prichard, Gary [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6642746B4287469B99C71A23DEAA882D-GPRICHAR]  
**Sent:** 12/8/2017 9:02:07 PM  
**To:** Valdes, Carla [valdes.carla@epa.gov]; Moody, Jonathan [moody.jonathan@epa.gov]  
**CC:** McKim, Krista [mckim.krista@epa.gov]; Kuefler, Patrick [kuefler.patrick@epa.gov]; Mendoza, Stephen [mendoza.stephen@epa.gov]  
**Subject:** **Ex. 5 AC/AWP**  
**Attachments:**

**Ex. 5 AC/AWP**

Thanks,  
Gary

---

**From:** Prichard, Gary  
**Sent:** Friday, December 8, 2017 1:48 PM  
**To:** Nelson, Leverett; Klassman, Debra  
**Cc:** Mendoza, Stephen; Kuefler, Patrick; McKim, Krista; Moody, Jonathan; Valdes, Carla  
**Subject:** **Ex. 5 AC/AWP**

**Ex. 5 / Deliberative Process, Attorney Client, Attorney Work Product**

Thanks,  
Gary

## Appointment

---

**From:** Valdes, Carla [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CVALDES]  
**Sent:** 11/14/2017 11:39:11 PM  
**To:** McDaniel, Nicholas A. (ENRD) [Nicholas.A.McDaniel@usdoj.gov]

**Subject:** **Ex. 5 AC/AWP**

**Location:** **Ex. 6 Personal Privacy (PP)**

**Start:** 11/17/2017 4:00:00 PM

**End:** 11/17/2017 5:00:00 PM

**Show Time As:** Busy

## Appointment

---

**From:** Valdes, Carla [valdes.carla@epa.gov]

**Sent:** 12/14/2017 6:15:33 PM

**Subject:** Ex. 5 AC/AWP

**Location:** Ex. 6 Personal Privacy (PP)

**Start:** 11/17/2017 4:00:00 PM

**End:** 11/17/2017 5:00:00 PM

**Show Time As:** Busy

**Recurrence:** (none)

Message

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**From:** Valdes, Carla [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CVALDES]  
**Sent:** 12/12/2017 9:12:35 PM  
**To:** Lippert, Allison [lippert.allison@epa.gov]  
**Subject:**  
**Attachments:** **Ex. 5 AC/AWP**

Hello Allison—

**Ex. 5 AC/AWP**

Thanks,  
Carla Valdes

Message

---

**From:** Bending, Padmavati [bending.padmavati@epa.gov]  
**Sent:** 8/12/2019 11:26:00 AM  
**To:** Fried, Gregory [Fried.Gregory@epa.gov]; Argentieri, Sabrina [argentieri.sabrina@epa.gov]; Cantello, Nicole [cantello.nicole@epa.gov]; Colquitt, Cynthia [colquitt.cynthia@epa.gov]; Gross, Louise C [gross.louise@epa.gov]; Hicks, Nola [hicks.nola@epa.gov]; Mendoza, Stephen [mendoza.stephen@epa.gov]; O'Meara, Nidhi [Omeara.Nidhi@epa.gov]; Prichard, Gary [prichard.gary@epa.gov]; Steketee, John [steketee.john@epa.gov]; Trevino, Jeffery [trevino.jeffery@epa.gov]; Vezner, Kris [vezner.kris@epa.gov]  
**Subject:** FW: DOJ Begins Rejecting SEPs In Municipal Settlements, Undercutting Policy

fyi

Padmavati G. Bending  
Associate Regional Counsel  
U.S. EPA, Region 5  
Office of Regional Counsel (C-14J)  
77 West Jackson Blvd.,  
Chicago, IL 60604

(312) 353-8917  
(312) 582-5154 (fax)

---

**From:** InsideEPA.com <insideepa-alerts@iwpnews.com>  
**Sent:** Thursday, August 8, 2019 5:12 PM  
**To:** Bending, Padmavati <bending.padmavati@epa.gov>  
**Subject:** DOJ Begins Rejecting SEPs In Municipal Settlements, Undercutting Policy



---

August 8, 2019

## THE WEEKLY FOCUS

*An in-depth look from our editors at a specific issue facing the Agency, published weekly.*



## DOJ Begins Rejecting SEPs In Municipal Settlements, Undercutting Policy

AUSTIN, TX -- The Department of Justice (DOJ) is rejecting supplemental environmental projects (SEPs) in settlements it is negotiating with local governmental agencies, a move that appears to undercut department policy that says it will approve the projects as part of deals provided they comply with EPA's SEP policy, attorneys say.

**READ MORE** →

---

### EDITORIAL CONTACT

703-562-8763

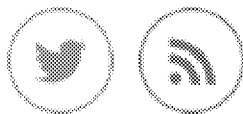
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Telephone: 703-416-8500 or 1-800-424-9068

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Message

---

**From:** Cantello, Nicole [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FAF97B9A89D244C28960A086AF1ACD3F-NCANTELL]  
**Sent:** 11/1/2017 3:06:15 PM  
**To:** Daugavietis, Andre [daugavietis.andre@epa.gov]  
**Subject:** Ex. 5 Attorney Client (AC)

## Ex. 5 Attorney Client (AC)

Best,

Nicole Cantello  
Attorney/Advisor  
U.S. Environmental Protection Agency  
77 West Jackson Boulevard  
Chicago, Illinois 60604  
312/886-2870  
cantello.nicole@epa.gov

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---

**From:** Daugavietis, Andre  
**Sent:** Wednesday, November 01, 2017 9:54 AM  
**To:** Cantello, Nicole <cantello.nicole@epa.gov>  
**Subject:** Ex. 5 Attorney Client (AC)

nicky: Ex. 5 Attorney Client (AC)

-andre

---

**From:** Cantello, Nicole  
**Sent:** Tuesday, October 31, 2017 11:14 AM  
**To:** Nanda, Sushila <Nanda.Sushila@epa.gov>; Middleton, Keith <middleton.keith@epa.gov>; Daugavietis, Andre <daugavietis.andre@epa.gov>  
**Subject:** Ex. 5 Attorney Client (AC)

## Ex. 5 Attorney Client (AC)

Best,

Nicole Cantello  
Attorney/Advisor  
U.S. Environmental Protection Agency  
77 West Jackson Boulevard  
Chicago, Illinois 60604  
312/886-2870  
cantello.nicole@epa.gov

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---

**From:** Nanda, Sushila

**Sent:** Tuesday, October 31, 2017 11:08 AM

**To:** Cantello, Nicole <[cantello.nicole@epa.gov](mailto:cantello.nicole@epa.gov)>; Middleton, Keith <[middleton.keith@epa.gov](mailto:middleton.keith@epa.gov)>; Daugavietis, Andre <[daugavietis.andre@epa.gov](mailto:daugavietis.andre@epa.gov)>

**Subject:** Ex. 5 Attorney Client (AC)

# Ex. 5 Attorney Client (AC)

Thanks, Sushila

Sushila Nanda

Senior Attorney Advisor

USEPA

OECA-OCE-WED

William Jefferson Clinton Building

12th Street and Pennsylvania Avenue, N.W.

Mail Code 2243A

Room 4111C

Washington, D.C. 20004

Phone: (202) 564-4088

Telefacsimile: (202) 564-0024

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**From:** Walker, Yolaanda [Walker.Yolaanda@epa.gov]  
**Sent:** 11/1/2017 5:44:51 PM  
**To:** Charlton, Tom [Charlton.Tom@epa.gov]  
**Subject:** RE: **Ex. 5 AC/DP**

Thanks

*Yolaanda Walker*

\*\*\*\*\*

**Yolaanda Walker, Environmental Engineer  
Pesticides and Tanks Enforcement Branch  
Waste and Chemical Enforcement Division  
Office of Civil Enforcement  
US Environmental Protection Agency (2249A)  
Ph: 202-564-4281, Fax: 202-564-0020  
Email: walker.yolaanda@epa.gov**

\*\*\*\*\*



*Help eliminate environmental violations - report tips and complaints at:  
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**From:** Charlton, Tom  
**Sent:** Wednesday, November 01, 2017 1:44 PM  
**To:** Walker, Yolaanda  
**Subject:** RE: **Ex. 5 AC/DP**

I can check.

Tom Charlton, Attorney  
Waste and Chemical Enforcement Division  
Office of Civil Enforcement  
U.S. Environmental Protection Agency  
Tel: (202) 564-6960  
Fax: (202) 564-0035

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**From:** Walker, Yolaanda  
**Sent:** Wednesday, November 01, 2017 1:38 PM  
**To:** Charlton, Tom <Charlton.Tom@epa.gov>  
**Subject:** **Ex. 5 AC/DP**

Tom,

## Ex. 5 AC/AWP/DP

*Yolaanda Walker*

\*\*\*\*\*

Yolaanda Walker, Environmental Engineer  
Pesticides and Tanks Enforcement Branch  
Waste and Chemical Enforcement Division  
Office of Civil Enforcement  
US Environmental Protection Agency (2249A)  
Ph: 202-564-4281, Fax: 202-564-0020  
Email: [walker.yolaanda@epa.gov](mailto:walker.yolaanda@epa.gov)

\*\*\*\*\*



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Message

**From:** Walker, Yolaanda [Walker.Yolaanda@epa.gov]  
**Sent:** 11/2/2017 12:14:43 PM  
**To:** Charlton, Tom [Charlton.Tom@epa.gov]  
**Subject:** RE: **Ex. 5 AC/DP**

Thanks for doing this Tom.

*Yolaanda Walker*

\*\*\*\*\*

**Yolaanda Walker, Environmental Engineer  
Pesticides and Tanks Enforcement Branch  
Waste and Chemical Enforcement Division  
Office of Civil Enforcement  
US Environmental Protection Agency (2249A)  
Ph: 202-564-4281, Fax: 202-564-0020  
Email: walker.yolaanda@epa.gov**

\*\*\*\*\*



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**From:** Charlton, Tom  
**Sent:** Wednesday, November 01, 2017 8:01 PM  
**To:** Walker, Yolaanda  
**Subject:** RE: **Ex. 5 AC/DP**

**Ex. 5 AC/DP**

Tom Charlton, Attorney  
Waste and Chemical Enforcement Division  
Office of Civil Enforcement  
U.S. Environmental Protection Agency  
Tel: (202) 564-6960  
Fax: (202) 564-0035

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**From:** Walker, Yolaanda  
**Sent:** Wednesday, November 01, 2017 1:38 PM

To: Charlton, Tom <Charlton.Tom@epa.gov>

Subject: Ex. 5 AC/DP

Tom,

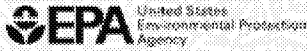
## Ex. 5 AC/AWP/DP

*Yolaanda Walker*

\*\*\*\*\*

Yolaanda Walker, Environmental Engineer  
Pesticides and Tanks Enforcement Branch  
Waste and Chemical Enforcement Division  
Office of Civil Enforcement  
US Environmental Protection Agency (2249A)  
Ph: 202-564-4281, Fax: 202-564-0020  
Email: [walker.yolaanda@epa.gov](mailto:walker.yolaanda@epa.gov)

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*Help eliminate environmental violations - report tips and complaints at:  
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**To:** Fogarty, Johnpc[Fogarty.Johnpc@epa.gov]  
**Cc:** Porter, Amy[Porter.Amy@epa.gov]  
**From:** Makepeace, Caroline[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=27D7588025B3410F9C9459E6CF9C44A4-CMAKEPEA]  
**Sent:** Mon 5/20/2019 4:17:32 PM (UTC)  
**Subject:** Re: Next steps on reasonable prep

Excellent. Thx!!

Sent from my iPhone

> On May 20, 2019, at 11:30 AM, Fogarty, Johnpc <Fogarty.Johnpc@epa.gov> wrote:

**Ex. 5 AC/DP**

> -----Original Message-----

> From: Makepeace, Caroline

> Sent: Monday, May 20, 2019 10:37 AM

> To: Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>

> Subject: Next steps on reasonable prep

**Ex. 5 AC/DP**

>

> Sent from my iPhone



Message

---

**From:** Makepeace, Caroline [Makepeace.Caroline@epa.gov]  
**Sent:** 5/17/2019 4:41:17 PM  
**To:** Fogarty, Johnpc [Fogarty.Johnpc@epa.gov]  
**Subject:** RE: CDs with muni SEPs

## Ex. 5 AC/DP

Caroline Makepeace  
Senior Counsel  
Office of Civil Enforcement  
US Environmental Protection Agency  
202-564-6012

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---

**From:** Fogarty, Johnpc  
**Sent:** Friday, May 17, 2019 11:59 AM  
**To:** Makepeace, Caroline <Makepeace.Caroline@epa.gov>  
**Subject:** RE: CDs with muni SEPs

## Ex. 5 AC/DP

---

**From:** Makepeace, Caroline  
**Sent:** Friday, May 17, 2019 11:39 AM  
**To:** Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>  
**Subject:** CDs with muni SEPs

## Ex. 5 AC/DP

Caroline Makepeace  
Senior Counsel  
Office of Civil Enforcement  
US Environmental Protection Agency  
202-564-6012

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Message

---

**From:** Branning, Hannah [Branning.Hannah@epa.gov]  
**Sent:** 5/17/2019 4:09:44 PM  
**To:** Buterbaugh, Kristin [Buterbaugh.Kristin@epa.gov]; Kelley, Rosemarie [Kelley.Rosemarie@epa.gov];  
OECASpecialAssistant [OECASpecialAssistant@epa.gov]  
**CC:** Shiffman, Cari [Shiffman.Cari@epa.gov]; Koslow, Karin [Koslow.Karin@epa.gov]; Fogarty, Johnpc  
[Fogarty.Johnpc@epa.gov]; Makepeace, Caroline [Makepeace.Caroline@epa.gov]  
**Subject:** RE: ED/RC Call Topic

Thanks Kristin! I updated the ED/RC agenda.

Hannah Branning, MSc.  
Special Assistant  
Office of Enforcement and Compliance Assurance  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue NW MC 2201A  
Washington, DC 20460

Office: (202) 564-3317

---

**From:** Buterbaugh, Kristin  
**Sent:** Friday, May 17, 2019 12:06 PM  
**To:** Branning, Hannah <Branning.Hannah@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>;  
OECASpecialAssistant <OECASpecialAssistant@epa.gov>  
**Cc:** Shiffman, Cari <Shiffman.Cari@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Fogarty, Johnpc  
<Fogarty.Johnpc@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>  
**Subject:** RE: ED/RC Call Topic

Hannah,

Here is a brief description for the SEP topic. Please let me know if you have any questions. Thanks!

1. **Update on Supplemental Environmental Projects (SEPs) for Municipalities/States (15 min)**
  - o Topic Leader: Susan Bodine, OECA and Rosemarie Kelley, OCE
  - o Description: Status update on DOJ position on SEPs
  - o Objective: Provide an update to the Regions on how the Sessions memo from DOJ applies to SEPs in enforcement settlements with municipalities and states and convey DOJ's current position on including SEPs in such cases.
  - o Materials: November 7, 2018 Sessions Memo (attached)

**Kristin Buterbaugh**  
Special Assistant  
OECA - Office of Civil Enforcement  
U.S. Environmental Protection Agency  
WJC South 3119C  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460  
(202) 564-4479  
[Buterbaugh.Kristin@epa.gov](mailto:Buterbaugh.Kristin@epa.gov)

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**From:** Branning, Hannah

**Sent:** Friday, May 17, 2019 8:19 AM

**To:** Kelley, Rosemarie <[Kelley.Rosemarie@epa.gov](mailto:Kelley.Rosemarie@epa.gov)>

**Cc:** Shiffman, Cari <[Shiffman.Cari@epa.gov](mailto:Shiffman.Cari@epa.gov)>; Buterbaugh, Kristin <[Buterbaugh.Kristin@epa.gov](mailto:Buterbaugh.Kristin@epa.gov)>

**Subject:** ED/RC Call Topic

Rosemarie,

Can you get me the following for the ED/RC call?

- 1) Update on Supplemental Environmental Projects (SEPs) for Municipalities/States (min)**
  - Topic Leader: Susan Bodine, OECA and Rosemarie Kelley, OCE
  - Description:
  - Objective:
  - Materials:

Thanks!

Hannah Branning, MSc.

Special Assistant

Office of Enforcement and Compliance Assurance

U.S. Environmental Protection Agency

1200 Pennsylvania Avenue NW MC 2201A

Washington, DC 20460

Office: (202) 564-3317 | Cell: (202) 819-2762

Message

---

**From:** Buterbaugh, Kristin [Buterbaugh.Kristin@epa.gov]  
**Sent:** 5/17/2019 4:06:16 PM  
**To:** Branning, Hannah [Branning.Hannah@epa.gov]; Kelley, Rosemarie [Kelley.Rosemarie@epa.gov];  
OECASpecialAssistant [OECASpecialAssistant@epa.gov]  
**CC:** Shiffman, Cari [Shiffman.Cari@epa.gov]; Koslow, Karin [Koslow.Karin@epa.gov]; Fogarty, Johnpc  
[Fogarty.Johnpc@epa.gov]; Makepeace, Caroline [Makepeace.Caroline@epa.gov]  
**Subject:** RE: ED/RC Call Topic  
**Attachments:** Principles and Procedures for Civil CDs with State and Local Government Entities.pdf

Hannah,

Here is a brief description for the SEP topic. Please let me know if you have any questions. Thanks!

1. **Update on Supplemental Environmental Projects (SEPs) for Municipalities/States** (15 min)
  - Topic Leader: Susan Bodine, OECA and Rosemarie Kelley, OCE
  - Description: Status update on DOJ position on SEPs
  - Objective: Provide an update to the Regions on how the Sessions memo from DOJ applies to SEPs in enforcement settlements with municipalities and states and convey DOJ's current position on including SEPs in such cases.
  - Materials: November 7, 2018 Sessions Memo (attached)

**Kristin Buterbaugh**

Special Assistant  
OECA - Office of Civil Enforcement  
U.S. Environmental Protection Agency  
WJC South 3119C  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460  
(202) 564-4479  
[Buterbaugh.Kristin@epa.gov](mailto:Buterbaugh.Kristin@epa.gov)

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**From:** Branning, Hannah  
**Sent:** Friday, May 17, 2019 8:19 AM  
**To:** Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>  
**Cc:** Shiffman, Cari <Shiffman.Cari@epa.gov>; Buterbaugh, Kristin <Buterbaugh.Kristin@epa.gov>  
**Subject:** ED/RC Call Topic

Rosemarie,

Can you get me the following for the ED/RC call?

- 1) **Update on Supplemental Environmental Projects (SEPs) for Municipalities/States** (min)
  - Topic Leader: Susan Bodine, OECA and Rosemarie Kelley, OCE
  - Description:
  - Objective:
  - Materials:

Thanks!

Hannah Branning, MSc.  
Special Assistant  
Office of Enforcement and Compliance Assurance  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue NW MC 2201A  
Washington, DC 20460

Office: (202) 564-3317 | Cell: (202) 819-2762

Message

---

**From:** Makepeace, Caroline [Makepeace.Caroline@epa.gov]  
**Sent:** 5/17/2019 1:53:39 PM  
**To:** Fogarty, Johnpc [Fogarty.Johnpc@epa.gov]  
**Subject:** RE: Ex. 5 AC/DP

**Ex. 5 AC/DP**

Caroline Makepeace  
Senior Counsel  
Office of Civil Enforcement  
US Environmental Protection Agency  
202-564-6012

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---

**From:** Fogarty, Johnpc  
**Sent:** Friday, May 17, 2019 9:36 AM  
**To:** Makepeace, Caroline <Makepeace.Caroline@epa.gov>  
**Subject:** Ex. 5 AC/DP

DOJ:

**Ex. 5 AC, DP / Ex. 7(A)**

Message

---

**From:** Makepeace, Caroline [Makepeace.Caroline@epa.gov]  
**Sent:** 5/15/2019 1:38:19 PM  
**To:** Fogarty, Johnpc [Fogarty.Johnpc@epa.gov]  
**Subject:** RE: **Ex. 5 AC/DP**

## Ex. 5 Attorney Client (AC)

Caroline Makepeace  
Senior Counsel  
Crosscutting Policy Staff  
Office of Civil Enforcement  
US Environmental Protection Agency  
202-564-6012

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**From:** Fogarty, Johnpc  
**Sent:** Wednesday, May 15, 2019 9:36 AM  
**To:** Makepeace, Caroline <Makepeace.Caroline@epa.gov>  
**Subject:** **Ex. 5 AC/DP**

Message

---

**From:** Makepeace, Caroline [Makepeace.Caroline@epa.gov]  
**Sent:** 5/13/2019 5:24:40 PM  
**To:** Fogarty, Johnpc [Fogarty.Johnpc@epa.gov]  
**CC:** Pollins, Mark [Pollins.Mark@epa.gov]; Porter, Amy [Porter.Amy@epa.gov]  
**Subject:** RE: Can you attend our monthly NPDES call with Regional BCs?

**Ex. 5 AC/DP**

Caroline Makepeace  
Senior Counsel  
Crosscutting Policy Staff  
Office of Civil Enforcement  
US Environmental Protection Agency  
202-564-6012

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---

**From:** Fogarty, Johnpc  
**Sent:** Monday, May 13, 2019 1:17 PM  
**To:** Makepeace, Caroline <Makepeace.Caroline@epa.gov>; Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>  
**Cc:** Pollins, Mark <Pollins.Mark@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>  
**Subject:** RE: Can you attend our monthly NPDES call with Regional BCs?

**Ex. 5 AC, DP / Ex. 7(A)**

---

**From:** Makepeace, Caroline  
**Sent:** Monday, May 13, 2019 1:09 PM  
**To:** Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>  
**Cc:** Pollins, Mark <Pollins.Mark@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>  
**Subject:** RE: Can you attend our monthly NPDES call with Regional BCs?

**Ex. 5 AC, DP / Ex. 7(A)**

Caroline Makepeace  
Senior Counsel  
Crosscutting Policy Staff  
Office of Civil Enforcement  
US Environmental Protection Agency



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---

**From:** Fogarty, Johnpc  
**Sent:** Monday, May 13, 2019 12:42 PM  
**To:** Makepeace, Caroline <Makepeace.Caroline@epa.gov>; Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>  
**Cc:** Pollins, Mark <Pollins.Mark@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>  
**Subject:** RE: Can you attend our monthly NPDES call with Regional BCs?

## Ex. 5 AC/DP

---

**From:** Makepeace, Caroline  
**Sent:** Monday, May 13, 2019 12:31 PM  
**To:** Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>  
**Cc:** Pollins, Mark <Pollins.Mark@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>; Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>  
**Subject:** RE: Can you attend our monthly NPDES call with Regional BCs?

## Ex. 5 AC/DP

Caroline Makepeace  
Senior Counsel  
Crosscutting Policy Staff  
Office of Civil Enforcement  
US Environmental Protection Agency  
202-564-6012

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---

**From:** Greenwald, Kathryn  
**Sent:** Monday, May 13, 2019 12:26 PM  
**To:** Makepeace, Caroline <Makepeace.Caroline@epa.gov>  
**Subject:** Can you attend our monthly NPDES call with Regional BCs?

Hi Caroline,  
Mark wants to put "SEPs" on the NPDES call agenda and asked if you are available to provide the Regions with an update. Our call is at 2 pm on Wed., May 15<sup>th</sup>, at 2 pm in room 4140. I can put this topic first on the agenda so you can leave right afterwards.

Kathy

## Message

---

**From:** Makepeace, Caroline [Makepeace.Caroline@epa.gov]  
**Sent:** 9/19/2019 9:37:40 PM  
**To:** Kelley, Rosemarie [Kelley.Rosemarie@epa.gov]; Porter, Amy [Porter.Amy@epa.gov]; Koslow, Karin [Koslow.Karin@epa.gov]; Fogarty, Johnpc [Fogarty.Johnpc@epa.gov]  
**Subject:** FW: DOJ Weighs Broader SEP Limits As New Policy Forces Renegotiations - Inside EPA

The word is getting out.

<https://insideepa.com/weekly-focus/doj-weighs-%E2%80%98broader%E2%80%99-sep-limits-new-policy-forces-renegotiations>

September 19, 2019

## DOJ Weighs 'Broader' SEP Limits As New Policy Forces Renegotiations

**September 19, 2019**

A top Justice Department (DOJ) official is considering additional "broader" limits on the use of popular supplemental environmental projects (SEPs) as a way to mitigate penalties in enforcement settlements after DOJ last month curbed their use in municipal settlements, forcing renegotiation of some pending deals and likely curbing future settlements that would implement EPA's upcoming lead and copper drinking water rule.

Jeffrey Clark, DOJ's assistant attorney general for the Environment & Natural Resources Division (ENRD), told *Inside EPA* on the sidelines of the American Bar Association environment fall conference in Boston Sept. 12, that the department continues to examine additional options for curbing defendants' use of such projects in settlements, as he had indicated in his [August memo](#) that dramatically limited SEPs for municipalities.

"That memo indicates that we're looking at the larger issue of SEPs as well, so that's ongoing," he said. "I shouldn't and can't prejudge the outcome of that. What's under consideration is whether to do something that's broader than that."

Clark added that, in the meantime, "the only guidance is the state and local assessment, which does discuss some general principles. It's not purely talking about state and local SEPs."

While Clark would not discuss details of any forthcoming policy, one source says attorneys are bracing for the possibility that DOJ may "completely abolish" the use of SEPs, or at least make it much more difficult to negotiate them.

But even before any next step, a second source adds that Clark's recent limits on SEPs in municipal settlements is already forcing the renegotiation of about 10 draft deals with publicly owned treatment works (POTWs).

"We are not talking about a reopener or modification to an already-entered decree," the second source says.

DOJ has sought to modify one settlement that had been submitted to a court but not yet entered, over the SEP issue. DOJ opposed the 2017 agreement with Harley Davidson over its \$3 million payment to the American Lung Association for a wood-stove swap-out program. More than two years later, the court has yet to act on the request, which DOJ [reiterated most recently in February](#).

SEPs are projects that settling parties agree to undertake to mitigate the impacts of an alleged environmental violation and have long been considered a popular settlement enticement since parties can win penalty relief and build good will in the communities the projects benefit.

Defenders of the projects say they have often been crucial tools in facilitating otherwise difficult-to-negotiate agreements with both governments and private industry, and that the inability to use them would spur more litigation or higher enforcement penalties for defendants.

But critics charge that SEPs enable "sweetheart deals" with environmentalists and allow enforcement efforts to go beyond what would otherwise be obtainable under existing laws.

Top Trump administration officials have adopted policies that limited their use. For example, former Attorney General Jeff Sessions in 2017 imposed a ban on payments to third parties in settlements that environmentalists and many attorneys feared would limit the use of SEPs.

Sessions later clarified that projects that comply with EPA's SEP policy were exempted from the ban. He also indicated that SEPs in settlements with municipal entities required approval from ENRD,

Clark's Aug. 21 memo reiterated Sessions' requirement that municipal entities receive ENRD approval but also issued additional criteria that the memo says will apply to "rare" case-by-case approval of SEPs, characterizing the criteria as "interim" while DOJ continues its broader review of the issue.

### **Outright Ban**

But the outside sources say that if Clark proceeds with an outright ban on SEPs, it could hamper settling parties' willingness to reach a deal and prompt more litigation, though these sources also note that the impact is unclear since DOJ is also bringing far fewer enforcement cases compared to prior administrations.

The second source says the latest SEPs policy is "more of an announcement as opposed to a conversation" and that the decision, which stems from Attorney General William Barr, came as a surprise to DOJ staff attorneys.

From the perspective of communities planning to do SEPs, "this is a bit of a game changer," the source adds. "It certainly will impact how civil penalty discussions play out, given the nexus between civil penalties and SEPs. As a result, certain [municipal governments] will be subject to greater civil penalties than if they were otherwise doing a SEP. . . . A lot of munis may be surprised to learn down the road that a tool that had been used widely, prior to the August memo, is no longer an option."

However, the source also notes, "There are not a whole lot of new enforcement efforts, given the downward trend, so the impacts" may not be widespread. A future administration could, of course, reverse the policy, but "what we have right now is the policy we have."

The first source says the new SEP limits will likely impair settlement discussions when DOJ begins enforcing new EPA lead and copper rules under the Safe Drinking Water Act, which will "require large remediation across the country" and is a new national enforcement priority.

But the source also notes far fewer enforcement cases being pursued and of those, settlements of cases even without SEPs are taking longer to win management approval, signaling that settling cases is "less of a priority" at DOJ. The source also says that the clampdown on SEPs so far has not impacted industry's willingness to consider them in ongoing settlement talks.

A DOJ spokesman declined to say what might be next for SEPs but referenced [an Aug. 27 talk](#) by Principal Deputy Assistant Attorney General Jonathan Brightbill to the Association of Air Pollution Control Agencies where he said the August memo "concludes . . . that consent decrees with state and local governments generally should not seek relief that a court cannot order."

He added that the memo clarifies that SEPs will not be approved as part of municipal agreements. "ENRD will generally not use its settlements and consent decrees as a means for defendants to acquiesce in doing projects that may benefit certain special interests."

But Brightbill also acknowledged that ENRD has expended "significant effort" in negotiating SEPs prior to the policy and in light of that included a process for seeking exemptions. He also extended an invitation for Congress to clearly authorize the use of SEPs.

However, the newest restrictions are getting widespread condemnation from groups such as the Center for Progressive Reform, which called the policy "a damaging retreat for environmental enforcement" in [a Sept. 18 blog post](#). It also called the policy "ill-considered and irrational" because SEPs often represent a middle ground and a "logical extension of the typical activities" of local agencies.



The alternative of paying higher fines to the U.S. Treasury "accomplishes little or nothing for health or the environment."

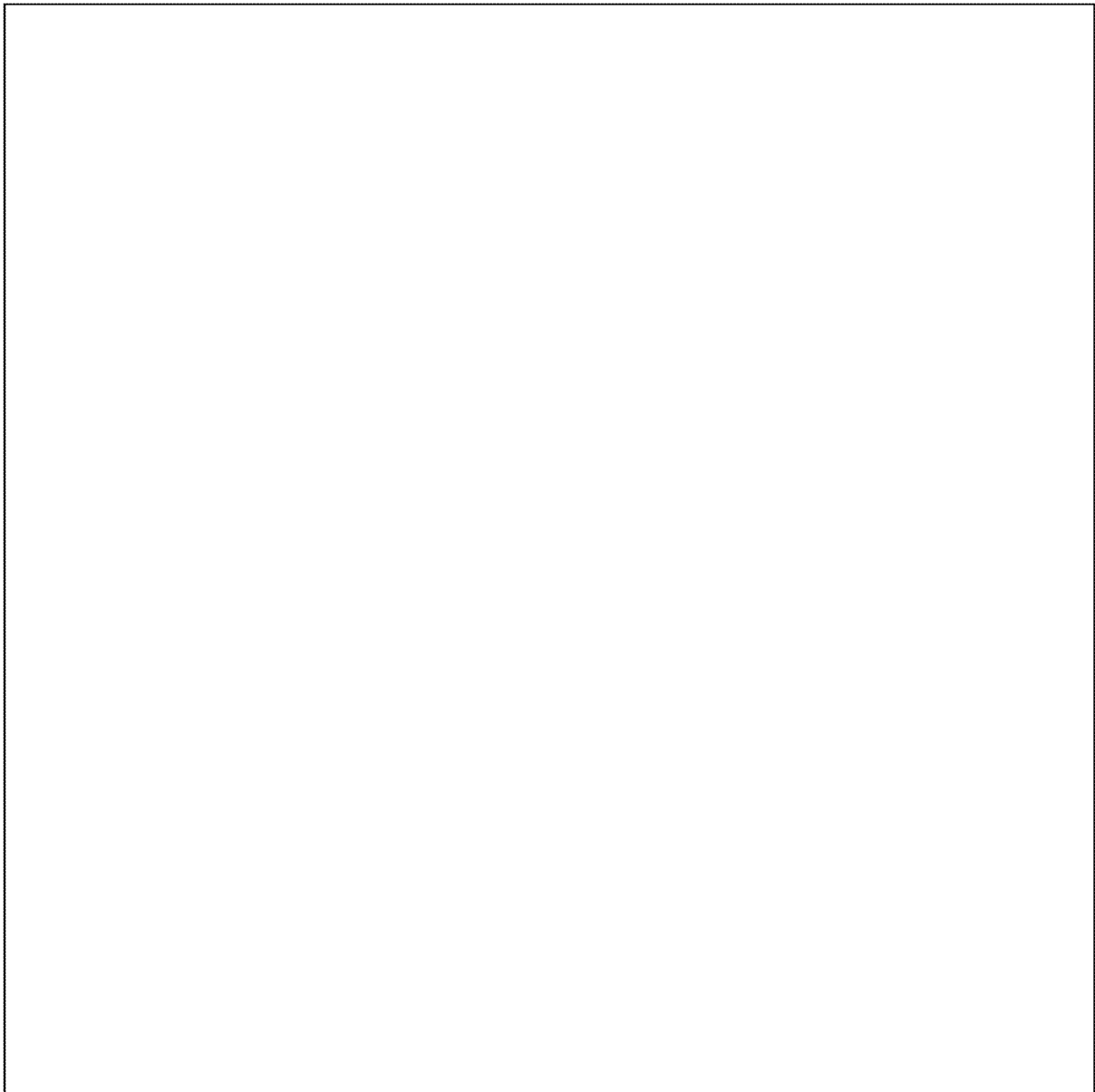
The American College of Environmental Lawyers' Zach Miller called the policy "three steps back" in [a Sept. 10 blog post](#). The moves are "legally unsound, are generally not sought or supported by the business community or state or local governments, and are counter-productive to the effective enforcement of federal environmental law." -- Dawn Reeves ([dreeves@iwpnews.com](mailto:dreeves@iwpnews.com))

Caroline Makepeace  
Senior Counsel  
Office of Civil Enforcement  
US Environmental Protection Agency  
202-564-6012

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**From:** InsideEPA.com <[insideepa-alerts@iwpnews.com](mailto:insideepa-alerts@iwpnews.com)>  
**Sent:** Thursday, September 19, 2019 5:22 PM  
**To:** Makepeace, Caroline <[Makepeace.Caroline@epa.gov](mailto:Makepeace.Caroline@epa.gov)>  
**Subject:** DOJ Weighs  Broader  SEP Limits As New Policy Forces Renegotiations



September 19, 2019

## THE WEEKLY FOCUS

*An in-depth look from our editors at a specific issue facing the Agency, published weekly.*

### **DOJ Weighs 'Broader' SEP Limits As New Policy Forces Renegotiations**

A top Justice Department (DOJ) official is considering additional "broader" limits on the use of popular supplemental environmental projects (SEPs) as a way to mitigate penalties in enforcement settlements after DOJ last month curbed their use in municipal settlements, forcing renegotiation of some pending deals and likely curbing future settlements that would implement EPA's upcoming lead and copper drinking water rule.

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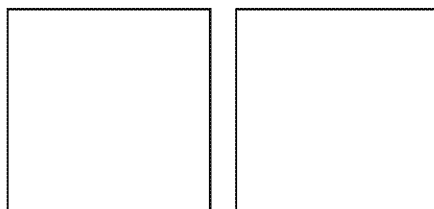
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Message

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**From:** Holmes, Carol [Holmes.Carol@epa.gov]  
**Sent:** 9/19/2019 9:23:31 PM  
**To:** Makepeace, Caroline [Makepeace.Caroline@epa.gov]; Porter, Amy [Porter.Amy@epa.gov]; Fogarty, Johnpc [Fogarty.Johnpc@epa.gov]  
**Subject:** FW: DOJ Weighs ♦Broader♦ SEP Limits As New Policy Forces Renegotiations

In case you hadn't heard....

---

**From:** InsideEPA.com <insideepa-alerts@iwpnews.com>  
**Sent:** Thursday, September 19, 2019 5:23 PM  
**To:** Holmes, Carol <Holmes.Carol@epa.gov>  
**Subject:** DOJ Weighs ♦Broader♦ SEP Limits As New Policy Forces Renegotiations



---

September 19, 2019

## THE WEEKLY FOCUS

*An in-depth look from our editors at a specific issue facing the Agency, published weekly.*

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Message

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**From:** Makepeace, Caroline [Makepeace.Caroline@epa.gov]  
**Sent:** 9/19/2019 12:00:10 PM  
**To:** Fogarty, Johnpc [Fogarty.Johnpc@epa.gov]  
**Subject:** Re: Request for Review - Email

Yeah, they attached the paper, but sent the cover note draft in the text of the email (below)

Sent from my iPhone

On Sep 19, 2019, at 7:53 AM, Fogarty, Johnpc <Fogarty.Johnpc@epa.gov> wrote:

Great-good to hear. I couldn't tell if you got both the doc as well as the cover note.

---

**From:** Makepeace, Caroline <Makepeace.Caroline@epa.gov>  
**Sent:** Wednesday, September 18, 2019 6:39 PM  
**To:** Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>  
**Subject:** Re: Request for Review - Email

**Ex. 5 AC/DP**

Sent from my iPhone

On Sep 18, 2019, at 4:16 PM, Fogarty, Johnpc <Fogarty.Johnpc@epa.gov> wrote:

Did you also see the final version of the document itself?

---

**From:** Makepeace, Caroline <Makepeace.Caroline@epa.gov>  
**Sent:** Wednesday, September 18, 2019 4:02 PM  
**To:** Mostaghim, Negin <Mostaghim.Negin@epa.gov>  
**Cc:** Crossland, Andy <Crossland.Andy@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>; Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>  
**Subject:** RE: Request for Review - Email

Hi guys,

**Ex. 5 AC/DP**

# Ex. 5 AC/DP

Thanks!

Caroline Makepeace  
Senior Counsel  
Office of Civil Enforcement  
US Environmental Protection Agency  
202-564-6012

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**From:** Mostaghim, Negin <[Mostaghim.Negin@epa.gov](mailto:Mostaghim.Negin@epa.gov)>  
**Sent:** Wednesday, September 18, 2019 9:46 AM  
**To:** Makepeace, Caroline <[Makepeace.Caroline@epa.gov](mailto:Makepeace.Caroline@epa.gov)>  
**Cc:** Crossland, Andy <[Crossland.Andy@epa.gov](mailto:Crossland.Andy@epa.gov)>  
**Subject:** Request for Review - Email

Dear Caroline,

# Ex. 5 AC/DP

Thank you.  
Sincerely,  
Negin

---

REMs-

# Ex. 5 AC/DP

# Ex. 5 AC/DP

Negin M. Mostaghim  
Attorney-Advisor, Office of Civil Enforcement  
U.S. Environmental Protection Agency  
Washington, D.C.  
Phone: (202) 564-4694

Message

---

**From:** Makepeace, Caroline [Makepeace.Caroline@epa.gov]  
**Sent:** 5/16/2019 6:48:54 PM  
**To:** Fogarty, Johnpc [Fogarty.Johnpc@epa.gov]  
**CC:** Kelley, Rosemarie [Kelley.Rosemarie@epa.gov]; Koslow, Karin [Koslow.Karin@epa.gov]; Porter, Amy [Porter.Amy@epa.gov]  
**Subject:** RE: Current state of affairs on SEPs (as of noon 5/15)

# Ex. 5 AC/DP

Caroline Makepeace  
Senior Counsel  
Office of Civil Enforcement  
US Environmental Protection Agency  
202-564-6012

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**From:** Fogarty, Johnpc  
**Sent:** Thursday, May 16, 2019 2:43 PM  
**To:** Makepeace, Caroline <Makepeace.Caroline@epa.gov>  
**Cc:** Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>  
**Subject:** RE: Current state of affairs on SEPs (as of noon 5/15)

# Ex. 5 AC/DP

---

**From:** Makepeace, Caroline  
**Sent:** Thursday, May 16, 2019 2:38 PM  
**To:** Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>  
**Cc:** Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>  
**Subject:** RE: Current state of affairs on SEPs (as of noon 5/15)

# Ex. 5 AC/DP

Caroline Makepeace  
Senior Counsel  
Office of Civil Enforcement  
US Environmental Protection Agency  
202-564-6012

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**From:** Fogarty, Johnpc  
**Sent:** Thursday, May 16, 2019 1:55 PM  
**To:** Makepeace, Caroline <Makepeace.Caroline@epa.gov>  
**Cc:** Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>  
**Subject:** RE: Current state of affairs on SEPs (as of noon 5/15)

## Ex. 5 AC/DP

**From:** Makepeace, Caroline  
**Sent:** Thursday, May 16, 2019 1:52 PM  
**To:** Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>  
**Cc:** Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>  
**Subject:** Re: Current state of affairs on SEPs (as of noon 5/15)

## Ex. 5 AC/DP

Sent from my iPhone

On May 16, 2019, at 1:44 PM, Fogarty, Johnpc <Fogarty.Johnpc@epa.gov> wrote:

## Ex. 5 AC/DP

**From:** Makepeace, Caroline  
**Sent:** Wednesday, May 15, 2019 12:14 PM  
**To:** Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>  
**Cc:** Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>  
**Subject:** Current state of affairs on SEPs (as of noon 5/15)

John and I put our heads together to try to get ahold of where things stand on SEPs, at DOJ and here. Enjoy!

Current state of affairs on SEPs (as of noon 5/15):

DOJ:

## Ex. 5 AC/DP, Ex. 7(a)

**Ex. 5 AC/DP**

EPA:

**Ex. 5 AC/DP**

**Ex. 5 AC/DP, Ex. 7(a)**

Caroline Makepeace  
Senior Counsel  
Crosscutting Policy Staff  
Office of Civil Enforcement  
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Message

---

**From:** Makepeace, Caroline [Makepeace.Caroline@epa.gov]  
**Sent:** 9/12/2019 4:17:11 PM  
**To:** Fogarty, Johnpc [Fogarty.Johnpc@epa.gov]  
**Subject:** Re: any thoughts welcome

# Ex. 5 AC/AWP/DP, Ex. 7(a)

Sent from my iPhone

On Sep 12, 2019, at 12:08 PM, Fogarty, Johnpc <[Fogarty.Johnpc@epa.gov](mailto:Fogarty.Johnpc@epa.gov)> wrote:

I don't know what one you want me to look at. Can you use the comments on the one I sent you on whichever version you want to use?

Sent from my iPhone

On Sep 12, 2019, at 12:06 PM, Makepeace, Caroline <[Makepeace.Caroline@epa.gov](mailto:Makepeace.Caroline@epa.gov)> wrote:

No just two – below was just to say, don't look at the first one!

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Senior Counsel  
Office of Civil Enforcement  
US Environmental Protection Agency  
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**From:** Fogarty, Johnpc <[Fogarty.Johnpc@epa.gov](mailto:Fogarty.Johnpc@epa.gov)>  
**Sent:** Thursday, September 12, 2019 12:04 PM  
**To:** Makepeace, Caroline <[Makepeace.Caroline@epa.gov](mailto:Makepeace.Caroline@epa.gov)>  
**Subject:** RE: any thoughts welcome

OK, you've now sent me 3 different versions of this-pick one!

---

**From:** Makepeace, Caroline <[Makepeace.Caroline@epa.gov](mailto:Makepeace.Caroline@epa.gov)>  
**Sent:** Thursday, September 12, 2019 11:58 AM  
**To:** Fogarty, Johnpc <[Fogarty.Johnpc@epa.gov](mailto:Fogarty.Johnpc@epa.gov)>  
**Subject:** RE: any thoughts welcome

Also, see cover note redux

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Senior Counsel  
Office of Civil Enforcement  
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**From:** Fogarty, Johnpc <[Fogarty.Johnpc@epa.gov](mailto:Fogarty.Johnpc@epa.gov)>  
**Sent:** Thursday, September 12, 2019 11:51 AM  
**To:** Makepeace, Caroline <[Makepeace.Caroline@epa.gov](mailto:Makepeace.Caroline@epa.gov)>  
**Subject:** RE: any thoughts welcome

Ddid you do the case summaries or was it the region?

---

**From:** Makepeace, Caroline <[Makepeace.Caroline@epa.gov](mailto:Makepeace.Caroline@epa.gov)>  
**Sent:** Thursday, September 12, 2019 11:24 AM  
**To:** Fogarty, Johnpc <[Fogarty.Johnpc@epa.gov](mailto:Fogarty.Johnpc@epa.gov)>  
**Subject:** any thoughts welcome

**Ex. 5 AC/AWP/DP, Ex. 7(a)**



# **Ex. 5 AC/AWP/DP, Ex. 7(a)**

Caroline Makepeace  
Senior Counsel  
Office of Civil Enforcement  
US Environmental Protection Agency  
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Message

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**From:** Kelley, Rosemarie [Kelley.Rosemarie@epa.gov]  
**Sent:** 4/29/2019 7:00:21 PM  
**To:** Fogarty, Johnpc [Fogarty.Johnpc@epa.gov]; Makepeace, Caroline [Makepeace.Caroline@epa.gov]  
**CC:** Buterbaugh, Kristin [Buterbaugh.Kristin@epa.gov]; Koslow, Karin [Koslow.Karin@epa.gov]; Porter, Amy [Porter.Amy@epa.gov]  
**Subject:** **Ex. 5 Deliberative Process (DP)**

I don't think I can, given my schedule. You should send.

Rosemarie

---

**From:** Fogarty, Johnpc  
**Sent:** Monday, April 29, 2019 2:59 PM  
**To:** Makepeace, Caroline <Makepeace.Caroline@epa.gov>  
**Cc:** Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Buterbaugh, Kristin <Buterbaugh.Kristin@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>  
**Subject:** **Ex. 5 Deliberative Process (DP)**

Sent from my iPhone

On Apr 29, 2019, at 2:04 PM, Makepeace, Caroline <Makepeace.Caroline@epa.gov> wrote:

Attached.

Caroline Makepeace  
Senior Counsel  
Crosscutting Policy Staff  
Office of Civil Enforcement  
US Environmental Protection Agency  
202-564-6012

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**From:** Fogarty, Johnpc  
**Sent:** Monday, April 29, 2019 2:01 PM  
**To:** Makepeace, Caroline <Makepeace.Caroline@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Buterbaugh, Kristin <Buterbaugh.Kristin@epa.gov>  
**Cc:** Koslow, Karin <Koslow.Karin@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>  
**Subject:** RE: Follow-up Items to OCE Weekly 4-25-19

## **Ex. 5 AC/DP**

---

**From:** Makepeace, Caroline  
**Sent:** Monday, April 29, 2019 1:48 PM  
**To:** Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Buterbaugh, Kristin <Buterbaugh.Kristin@epa.gov>

**Cc:** Koslow, Karin <[Koslow.Karin@epa.gov](mailto:Koslow.Karin@epa.gov)>; Porter, Amy <[Porter.Amy@epa.gov](mailto:Porter.Amy@epa.gov)>

**Subject:** RE: Follow-up Items to OCE Weekly 4-25-19

Attached is what I've put together from WED. Let me know if you think it needs revision in any way.

## Ex. 5 AC/DP

Caroline Makepeace  
Senior Counsel  
Crosscutting Policy Staff  
Office of Civil Enforcement  
US Environmental Protection Agency  
202-564-6012

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**From:** Kelley, Rosemarie

**Sent:** Sunday, April 28, 2019 10:19 PM

**To:** Fogarty, Johnpc <[Fogarty.Johnpc@epa.gov](mailto:Fogarty.Johnpc@epa.gov)>; Buterbaugh, Kristin <[Buterbaugh.Kristin@epa.gov](mailto:Buterbaugh.Kristin@epa.gov)>;  
Makepeace, Caroline <[Makepeace.Caroline@epa.gov](mailto:Makepeace.Caroline@epa.gov)>

**Cc:** Koslow, Karin <[Koslow.Karin@epa.gov](mailto:Koslow.Karin@epa.gov)>

**Subject:** Re: Follow-up Items to OCE Weekly 4-25-19

John--

## Ex. 5 AC/DP

Rosemarie

---

**From:** Fogarty, Johnpc

**Sent:** Thursday, April 25, 2019 4:41 PM

**To:** Bodine, Susan; Buterbaugh, Kristin; Sullivan, Greg; Saenz, Diana; Makepeace, Caroline

**Cc:** Starfield, Lawrence; Traylor, Patrick; Shiffman, Cari; Branning, Hannah; Kelley, Rosemarie

**Subject:** RE: Follow-up Items to OCE Weekly 4-25-19

## Ex. 5 AC/DP

---

**From:** Bodine, Susan

**Sent:** Thursday, April 25, 2019 4:40 PM

**To:** Fogarty, Johnpc <[Fogarty.Johnpc@epa.gov](mailto:Fogarty.Johnpc@epa.gov)>; Buterbaugh, Kristin  
<[Buterbaugh.Kristin@epa.gov](mailto:Buterbaugh.Kristin@epa.gov)>; Sullivan, Greg <[Sullivan.Greg@epa.gov](mailto:Sullivan.Greg@epa.gov)>; Saenz, Diana  
<[Saenz.Diana@epa.gov](mailto:Saenz.Diana@epa.gov)>; Makepeace, Caroline <[Makepeace.Caroline@epa.gov](mailto:Makepeace.Caroline@epa.gov)>

**Cc:** Starfield, Lawrence <[Starfield.Lawrence@epa.gov](mailto:Starfield.Lawrence@epa.gov)>; Traylor, Patrick <[traylor.patrick@epa.gov](mailto:traylor.patrick@epa.gov)>; Shiffman, Cari <[Shiffman.Cari@epa.gov](mailto:Shiffman.Cari@epa.gov)>; Branning, Hannah <[Branning.Hannah@epa.gov](mailto:Branning.Hannah@epa.gov)>; Kelley, Rosemarie <[Kelley.Rosemarie@epa.gov](mailto:Kelley.Rosemarie@epa.gov)>  
**Subject:** RE: Follow-up Items to OCE Weekly 4-25-19

## Ex. 5 AC/DP

**From:** Fogarty, Johnpc  
**Sent:** Thursday, April 25, 2019 4:38 PM  
**To:** Buterbaugh, Kristin <[Buterbaugh.Kristin@epa.gov](mailto:Buterbaugh.Kristin@epa.gov)>; Sullivan, Greg <[Sullivan.Greg@epa.gov](mailto:Sullivan.Greg@epa.gov)>; Saenz, Diana <[Saenz.Diana@epa.gov](mailto:Saenz.Diana@epa.gov)>; Makepeace, Caroline <[Makepeace.Caroline@epa.gov](mailto:Makepeace.Caroline@epa.gov)>  
**Cc:** Bodine, Susan <[bodine.susan@epa.gov](mailto:bodine.susan@epa.gov)>; Starfield, Lawrence <[Starfield.Lawrence@epa.gov](mailto:Starfield.Lawrence@epa.gov)>; Traylor, Patrick <[traylor.patrick@epa.gov](mailto:traylor.patrick@epa.gov)>; Shiffman, Cari <[Shiffman.Cari@epa.gov](mailto:Shiffman.Cari@epa.gov)>; Branning, Hannah <[Branning.Hannah@epa.gov](mailto:Branning.Hannah@epa.gov)>; Kelley, Rosemarie <[Kelley.Rosemarie@epa.gov](mailto:Kelley.Rosemarie@epa.gov)>  
**Subject:** RE: Follow-up Items to OCE Weekly 4-25-19

## Ex. 5 AC/DP

**From:** Buterbaugh, Kristin  
**Sent:** Thursday, April 25, 2019 4:18 PM  
**To:** Sullivan, Greg <[Sullivan.Greg@epa.gov](mailto:Sullivan.Greg@epa.gov)>; Saenz, Diana <[Saenz.Diana@epa.gov](mailto:Saenz.Diana@epa.gov)>; Fogarty, Johnpc <[Fogarty.Johnpc@epa.gov](mailto:Fogarty.Johnpc@epa.gov)>; Makepeace, Caroline <[Makepeace.Caroline@epa.gov](mailto:Makepeace.Caroline@epa.gov)>  
**Cc:** Bodine, Susan <[bodine.susan@epa.gov](mailto:bodine.susan@epa.gov)>; Starfield, Lawrence <[Starfield.Lawrence@epa.gov](mailto:Starfield.Lawrence@epa.gov)>; Traylor, Patrick <[traylor.patrick@epa.gov](mailto:traylor.patrick@epa.gov)>; Shiffman, Cari <[Shiffman.Cari@epa.gov](mailto:Shiffman.Cari@epa.gov)>; Branning, Hannah <[Branning.Hannah@epa.gov](mailto:Branning.Hannah@epa.gov)>; Kelley, Rosemarie <[Kelley.Rosemarie@epa.gov](mailto:Kelley.Rosemarie@epa.gov)>  
**Subject:** Follow-up Items to OCE Weekly 4-25-19

Good afternoon,

Here the follow-up items from today's OCE Weekly:

1. National Mining Association meeting

- 
- 

## Ex. 5 AC/DP

2. SEP meeting

- 
- 

## Ex. 5 AC/DP

Please let me know if there are any questions. Thank you.

**Kristin Buterbaugh**

Special Assistant

OECA - Office of Civil Enforcement

U.S. Environmental Protection Agency

WJC South 3119C

1200 Pennsylvania Avenue, NW

Washington, DC 20460

(202) 564-4479

[Buterbaugh.Kristin@epa.gov](mailto:Buterbaugh.Kristin@epa.gov)

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<Background on Municipal Settlements Including Supplemental Environmental Projects.4.29.19.docx>

Message

---

**From:** Makepeace, Caroline [Makepeace.Caroline@epa.gov]  
**Sent:** 4/29/2019 6:04:27 PM  
**To:** Fogarty, Johnpc [Fogarty.Johnpc@epa.gov]; Kelley, Rosemarie [Kelley.Rosemarie@epa.gov]; Buterbaugh, Kristin [Buterbaugh.Kristin@epa.gov]  
**CC:** Koslow, Karin [Koslow.Karin@epa.gov]; Porter, Amy [Porter.Amy@epa.gov]  
**Subject:** RE: Follow-up Items to OCE Weekly 4-25-19 -- revised background paper  
**Attachments:** Background on Municipal Settlements Including Supplemental Environmental Projects.4.29.19.docx

Attached.

Caroline Makepeace  
Senior Counsel  
Crosscutting Policy Staff  
Office of Civil Enforcement  
US Environmental Protection Agency  
202-564-6012

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---

**From:** Fogarty, Johnpc  
**Sent:** Monday, April 29, 2019 2:01 PM  
**To:** Makepeace, Caroline <Makepeace.Caroline@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Buterbaugh, Kristin <Buterbaugh.Kristin@epa.gov>  
**Cc:** Koslow, Karin <Koslow.Karin@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>  
**Subject:** RE: Follow-up Items to OCE Weekly 4-25-19

## Ex. 5 AC/DP

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**From:** Makepeace, Caroline  
**Sent:** Monday, April 29, 2019 1:48 PM  
**To:** Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Buterbaugh, Kristin <Buterbaugh.Kristin@epa.gov>  
**Cc:** Koslow, Karin <Koslow.Karin@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>  
**Subject:** RE: Follow-up Items to OCE Weekly 4-25-19

Attached is what I've put together from WED. Let me know if you think it needs revision in any way.

## Ex. 5 AC/DP

Caroline Makepeace  
Senior Counsel  
Crosscutting Policy Staff  
Office of Civil Enforcement  
US Environmental Protection Agency  
202-564-6012

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---

**From:** Kelley, Rosemarie  
**Sent:** Sunday, April 28, 2019 10:19 PM  
**To:** Fogarty, Johnpc <[Fogarty.Johnpc@epa.gov](mailto:Fogarty.Johnpc@epa.gov)>; Buterbaugh, Kristin <[Buterbaugh.Kristin@epa.gov](mailto:Buterbaugh.Kristin@epa.gov)>; Makepeace, Caroline <[Makepeace.Caroline@epa.gov](mailto:Makepeace.Caroline@epa.gov)>  
**Cc:** Koslow, Karin <[Koslow.Karin@epa.gov](mailto:Koslow.Karin@epa.gov)>  
**Subject:** Re: Follow-up Items to OCE Weekly 4-25-19

John--

**Ex. 5 AC/DP**

Rosemarie

---

**From:** Fogarty, Johnpc  
**Sent:** Thursday, April 25, 2019 4:41 PM  
**To:** Bodine, Susan; Buterbaugh, Kristin; Sullivan, Greg; Saenz, Diana; Makepeace, Caroline  
**Cc:** Starfield, Lawrence; Traylor, Patrick; Shiffman, Cari; Branning, Hannah; Kelley, Rosemarie  
**Subject:** RE: Follow-up Items to OCE Weekly 4-25-19

**Ex. 5 AC/DP**

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**From:** Bodine, Susan  
**Sent:** Thursday, April 25, 2019 4:40 PM  
**To:** Fogarty, Johnpc <[Fogarty.Johnpc@epa.gov](mailto:Fogarty.Johnpc@epa.gov)>; Buterbaugh, Kristin <[Buterbaugh.Kristin@epa.gov](mailto:Buterbaugh.Kristin@epa.gov)>; Sullivan, Greg <[Sullivan.Greg@epa.gov](mailto:Sullivan.Greg@epa.gov)>; Saenz, Diana <[Saenz.Diana@epa.gov](mailto:Saenz.Diana@epa.gov)>; Makepeace, Caroline <[Makepeace.Caroline@epa.gov](mailto:Makepeace.Caroline@epa.gov)>  
**Cc:** Starfield, Lawrence <[Starfield.Lawrence@epa.gov](mailto:Starfield.Lawrence@epa.gov)>; Traylor, Patrick <[traylor.patrick@epa.gov](mailto:traylor.patrick@epa.gov)>; Shiffman, Cari <[Shiffman.Cari@epa.gov](mailto:Shiffman.Cari@epa.gov)>; Branning, Hannah <[Branning.Hannah@epa.gov](mailto:Branning.Hannah@epa.gov)>; Kelley, Rosemarie <[Kelley.Rosemarie@epa.gov](mailto:Kelley.Rosemarie@epa.gov)>  
**Subject:** RE: Follow-up Items to OCE Weekly 4-25-19

**Ex. 5 AC/DP**

---

**From:** Fogarty, Johnpc  
**Sent:** Thursday, April 25, 2019 4:38 PM  
**To:** Buterbaugh, Kristin <[Buterbaugh.Kristin@epa.gov](mailto:Buterbaugh.Kristin@epa.gov)>; Sullivan, Greg <[Sullivan.Greg@epa.gov](mailto:Sullivan.Greg@epa.gov)>; Saenz, Diana <[Saenz.Diana@epa.gov](mailto:Saenz.Diana@epa.gov)>; Makepeace, Caroline <[Makepeace.Caroline@epa.gov](mailto:Makepeace.Caroline@epa.gov)>  
**Cc:** Bodine, Susan <[bodine.susan@epa.gov](mailto:bodine.susan@epa.gov)>; Starfield, Lawrence <[Starfield.Lawrence@epa.gov](mailto:Starfield.Lawrence@epa.gov)>; Traylor, Patrick <[traylor.patrick@epa.gov](mailto:traylor.patrick@epa.gov)>; Shiffman, Cari <[Shiffman.Cari@epa.gov](mailto:Shiffman.Cari@epa.gov)>; Branning, Hannah

<Branning.Hannah@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>

**Subject:** RE: Follow-up Items to OCE Weekly 4-25-19

## Ex. 5 AC/DP

**From:** Buterbaugh, Kristin

**Sent:** Thursday, April 25, 2019 4:18 PM

**To:** Sullivan, Greg <Sullivan.Greg@epa.gov>; Saenz, Diana <Saenz.Diana@epa.gov>; Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>

**Cc:** Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>; Branning, Hannah <Branning.Hannah@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>

**Subject:** Follow-up Items to OCE Weekly 4-25-19

Good afternoon,

Here the follow-up items from today's OCE Weekly:

1. National Mining Association meeting

- 
- 

## Ex. 5 AC/DP

2. SEP meeting

- 
- 

## Ex. 5 AC/DP

Please let me know if there are any questions. Thank you.

**Kristin Buterbaugh**

Special Assistant

OECA - Office of Civil Enforcement

U.S. Environmental Protection Agency

WJC South 3119C

1200 Pennsylvania Avenue, NW

Washington, DC 20460

(202) 564-4479

[Buterbaugh.Kristin@epa.gov](mailto:Buterbaugh.Kristin@epa.gov)

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Message

---

**From:** Makepeace, Caroline [Makepeace.Caroline@epa.gov]  
**Sent:** 4/29/2019 5:09:51 PM  
**To:** Kelley, Rosemarie [Kelley.Rosemarie@epa.gov]; Fogarty, Johnpc [Fogarty.Johnpc@epa.gov]  
**CC:** Porter, Amy [Porter.Amy@epa.gov]; Koslow, Karin [Koslow.Karin@epa.gov]  
**Subject:** RE: SEP meeting with DOJ

**Attachments:**

**Ex. 5 AC/DP**

Rosemarie --

Attached are marked up and clean (revised to accept the edits) versions.

Caroline Makepeace  
Senior Counsel  
Crosscutting Policy Staff  
Office of Civil Enforcement  
US Environmental Protection Agency  
202-564-6012

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---

**From:** Kelley, Rosemarie  
**Sent:** Monday, April 29, 2019 12:54 PM  
**To:** Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>  
**Cc:** Porter, Amy <Porter.Amy@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>  
**Subject:** RE: SEP meeting with DOJ

That sounds right. Do I have both a clean and redline version?

Rosemarie

---

**From:** Fogarty, Johnpc  
**Sent:** Monday, April 29, 2019 11:59 AM  
**To:** Makepeace, Caroline <Makepeace.Caroline@epa.gov>  
**Cc:** Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>  
**Subject:** RE: SEP meeting with DOJ

Thx!

**Ex. 5 AC/DP**

---

**From:** Makepeace, Caroline  
**Sent:** Monday, April 29, 2019 11:27 AM  
**To:** Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>  
**Cc:** Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>; Koslow, Karin

<Koslow.Karin@epa.gov>

**Subject:** RE: SEP meeting with DOJ

This is much improved, in terms of focus, and accuracy. Made a few additional tweaks to consider.

# Ex. 5 AC/DP

Caroline Makepeace  
Senior Counsel  
Crosscutting Policy Staff  
Office of Civil Enforcement  
US Environmental Protection Agency  
202-564-6012

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---

**From:** Fogarty, Johnpc  
**Sent:** Monday, April 29, 2019 9:29 AM  
**To:** Makepeace, Caroline <Makepeace.Caroline@epa.gov>  
**Cc:** Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>  
**Subject:** RE: SEP meeting with DOJ

Ugh - sorry to hear about that! Revised draft attached - I almost got to the end on an initial run-through.

---

**From:** Makepeace, Caroline  
**Sent:** Monday, April 29, 2019 8:29 AM  
**To:** Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>  
**Cc:** Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>  
**Subject:** Re: SEP meeting with DOJ

Perfect! Was going to say suggest you go ahead, since

**Ex. 6 Personal Privacy (PP)**

# Ex. 6 Personal Privacy (PP)

Sent from my iPhone

On Apr 29, 2019, at 8:18 AM, Fogarty, Johnpc <Fogarty.Johnpc@epa.gov> wrote:

# Ex. 5 AC/DP

Caroline, I'll take a first cut and then hand it to you by 9 am.

---

**From:** Kelley, Rosemarie  
**Sent:** Sunday, April 28, 2019 8:24 PM  
**To:** Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>

**Cc:** Porter, Amy <Porter.Amy@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>

**Subject:** Fw: SEP meeting with DOJ

John, Caroline --

This paper needs your review/revisions. The language needs to be tightened up.

Rosemarie

---

**From:** Starfield, Lawrence

**Sent:** Sunday, April 28, 2019 6:38 PM

**To:** Bodine, Susan

**Cc:** Kelley, Rosemarie; Fogarty, Johnpc; Makepeace, Caroline

**Subject:** SEP meeting with DOJ

Susan,

**Ex. 5 AC/DP**

For your consideration.

Larry

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

Message

---

**From:** Porter, Amy [Porter.Amy@epa.gov]  
**Sent:** 5/15/2019 4:59:14 PM  
**To:** Makepeace, Caroline [Makepeace.Caroline@epa.gov]  
**CC:** Kelley, Rosemarie [Kelley.Rosemarie@epa.gov]; Koslow, Karin [Koslow.Karin@epa.gov]; Fogarty, Johnpc [Fogarty.Johnpc@epa.gov]  
**Subject:** Re: Current state of affairs on SEPs (as of noon 5/15)

This is extremely helpful! Thank you!

Sent from my iPhone

On May 15, 2019, at 12:14 PM, Makepeace, Caroline <[Makepeace.Caroline@epa.gov](mailto:Makepeace.Caroline@epa.gov)> wrote:

John and I put our heads together to try to get ahold of where things stand on SEPs, at DOJ and here. Enjoy!

Current state of affairs on SEPs (as of noon 5/15):

DOJ:

**Ex. 5 Attorney Client (AC)**

EPA:

**Ex. 5 AC/DP**

# **Ex. 5 AC, DP / Ex. 7(A)**

Caroline Makepeace  
Senior Counsel  
Crosscutting Policy Staff  
Office of Civil Enforcement  
US Environmental Protection Agency  
202-564-6012

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Message

---

**From:** Makepeace, Caroline [Makepeace.Caroline@epa.gov]  
**Sent:** 5/15/2019 4:44:38 PM  
**To:** Fogarty, Johnpc [Fogarty.Johnpc@epa.gov]  
**Subject:** RE: Trying to get my arms around this

## Ex. 6 Personal Privacy (PP)

Caroline Makepeace  
Senior Counsel  
Crosscutting Policy Staff  
Office of Civil Enforcement  
US Environmental Protection Agency  
202-564-6012

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---

**From:** Fogarty, Johnpc  
**Sent:** Wednesday, May 15, 2019 12:36 PM  
**To:** Makepeace, Caroline <Makepeace.Caroline@epa.gov>  
**Subject:** RE: Trying to get my arms around this

Ex. 6 Personal Privacy (PP)

---

**From:** Makepeace, Caroline  
**Sent:** Wednesday, May 15, 2019 12:29 PM  
**To:** Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>  
**Subject:** RE: Trying to get my arms around this

Ex. 6 Personal Privacy (PP)

Caroline Makepeace  
Senior Counsel  
Crosscutting Policy Staff  
Office of Civil Enforcement  
US Environmental Protection Agency  
202-564-6012

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---

**From:** Fogarty, Johnpc  
**Sent:** Wednesday, May 15, 2019 12:22 PM  
**To:** Makepeace, Caroline <Makepeace.Caroline@epa.gov>  
**Subject:** RE: Trying to get my arms around this

**Ex. 6 Personal Privacy (PP)**

---

**From:** Makepeace, Caroline  
**Sent:** Wednesday, May 15, 2019 12:15 PM  
**To:** Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>  
**Subject:** RE: Trying to get my arms around this

**Ex. 6 Personal Privacy (PP)**

Caroline Makepeace  
Senior Counsel  
Crosscutting Policy Staff  
Office of Civil Enforcement  
US Environmental Protection Agency  
202-564-6012

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---

**From:** Fogarty, Johnpc  
**Sent:** Wednesday, May 15, 2019 11:58 AM  
**To:** Makepeace, Caroline <Makepeace.Caroline@epa.gov>  
**Subject:** RE: Trying to get my arms around this

Do you want to share w/Amy?

---

**From:** Makepeace, Caroline  
**Sent:** Wednesday, May 15, 2019 11:46 AM  
**To:** Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>  
**Subject:** RE: Trying to get my arms around this

See tweaks in blue below.

Caroline Makepeace  
Senior Counsel  
Crosscutting Policy Staff

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---

**From:** Fogarty, Johnpc  
**Sent:** Wednesday, May 15, 2019 11:37 AM  
**To:** Makepeace, Caroline <Makepeace.Caroline@epa.gov>  
**Subject:** RE: Trying to get my arms around this

Current state of affairs (as of noon 5/15):

DOJ:

**Ex. 5 Attorney Client (AC)**

EPA:

**Ex. 5 AC/DP**

**Ex. 5 AC, DP / Ex. 7(A)**



# **Ex. 5 AC, DP / Ex. 7(A)**

Message

---

**From:** Makepeace, Caroline [Makepeace.Caroline@epa.gov]  
**Sent:** 5/15/2019 4:08:05 PM  
**To:** Fogarty, Johnpc [Fogarty.Johnpc@epa.gov]  
**Subject:** RE: Trying to get my arms around this

kk

Caroline Makepeace  
Senior Counsel  
Crosscutting Policy Staff  
Office of Civil Enforcement  
US Environmental Protection Agency  
202-564-6012

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---

**From:** Fogarty, Johnpc  
**Sent:** Wednesday, May 15, 2019 12:08 PM  
**To:** Makepeace, Caroline <Makepeace.Caroline@epa.gov>  
**Subject:** RE: Trying to get my arms around this

I reckon

---

**From:** Makepeace, Caroline  
**Sent:** Wednesday, May 15, 2019 12:00 PM  
**To:** Fogarty, Johnpc <[Fogarty.Johnpc@epa.gov](mailto:Fogarty.Johnpc@epa.gov)>  
**Subject:** RE: Trying to get my arms around this

Sure. Also, RK, KK?

Caroline Makepeace  
Senior Counsel  
Crosscutting Policy Staff  
Office of Civil Enforcement  
US Environmental Protection Agency  
202-564-6012

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---

**From:** Fogarty, Johnpc  
**Sent:** Wednesday, May 15, 2019 11:58 AM  
**To:** Makepeace, Caroline <Makepeace.Caroline@epa.gov>  
**Subject:** RE: Trying to get my arms around this

Do you want to share w/Amy?

---

**From:** Makepeace, Caroline  
**Sent:** Wednesday, May 15, 2019 11:46 AM  
**To:** Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>  
**Subject:** RE: Trying to get my arms around this

See tweaks in blue below.

Caroline Makepeace  
Senior Counsel  
Crosscutting Policy Staff  
Office of Civil Enforcement  
US Environmental Protection Agency  
202-564-6012

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---

**From:** Fogarty, Johnpc  
**Sent:** Wednesday, May 15, 2019 11:37 AM  
**To:** Makepeace, Caroline <Makepeace.Caroline@epa.gov>  
**Subject:** RE: Trying to get my arms around this

Current state of affairs (as of noon 5/15):

DOJ:

**Ex. 5 Attorney Client (AC)**

## **Ex. 5 Attorney Client (AC)**

EPA:

# **Ex. 5 AC/DP**

# **Ex. 5 AC, DP / Ex. 7(A)**

Message

---

**From:** Makepeace, Caroline [Makepeace.Caroline@epa.gov]  
**Sent:** 5/15/2019 2:39:01 PM  
**To:** Fogarty, Johnpc [Fogarty.Johnpc@epa.gov]  
**Subject:** RE: Trying to get my arms around this

K. good luck!

Caroline Makepeace  
Senior Counsel  
Crosscutting Policy Staff  
Office of Civil Enforcement  
US Environmental Protection Agency  
202-564-6012

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---

**From:** Fogarty, Johnpc  
**Sent:** Wednesday, May 15, 2019 10:38 AM  
**To:** Makepeace, Caroline <Makepeace.Caroline@epa.gov>  
**Subject:** RE: Trying to get my arms around this

I'm prepping for an 11 am call right now

---

**From:** Makepeace, Caroline  
**Sent:** Wednesday, May 15, 2019 10:31 AM  
**To:** Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>  
**Subject:** RE: Trying to get my arms around this

Easiest to discuss? Or ya want me to mark this up?

Caroline Makepeace  
Senior Counsel  
Crosscutting Policy Staff  
Office of Civil Enforcement  
US Environmental Protection Agency  
202-564-6012

This may contain enforcement confidential or privileged material. Do not release without appropriate review. If you have received this message in error, please inform the sender, and promptly delete.

**From:** Fogarty, Johnpc  
**Sent:** Wednesday, May 15, 2019 9:54 AM  
**To:** Makepeace, Caroline <Makepeace.Caroline@epa.gov>  
**Subject:** Trying to get my arms around this

OK, so for my own edification, I took a shot at trying to summarize the current state of affairs and came up with SEPs. Let me know if you all think this is accurate (wasn't trying to be comprehensive/get every last detail, just the high points). Some blanks on the cases to fill in (since I'm in the WCED general).

DOJ:

**Ex. 5 Attorney Client (AC)**

EPA:

**Ex. 5 AC/DP**

**Ex. 5 AC, DP / Ex. 7(A)**

Message

---

**From:** Makepeace, Caroline [Makepeace.Caroline@epa.gov]  
**Sent:** 4/29/2019 3:11:12 PM  
**To:** Fogarty, Johnpc [Fogarty.Johnpc@epa.gov]  
**Subject:** Re: SEP meeting with DOJ

## Ex. 5 AC/DP

Sent from my iPhone

On Apr 29, 2019, at 11:06 AM, Fogarty, Johnpc <[Fogarty.Johnpc@epa.gov](mailto:Fogarty.Johnpc@epa.gov)> wrote:

In Larry's 2 pager? I wouldn't do the entire thing - just a short soundbite.

Sent from my iPhone

On Apr 29, 2019, at 11:00 AM, Makepeace, Caroline <[Makepeace.Caroline@epa.gov](mailto:Makepeace.Caroline@epa.gov)> wrote:

## Ex. 5 AC/DP

Caroline Makepeace  
Senior Counsel  
Crosscutting Policy Staff  
Office of Civil Enforcement  
US Environmental Protection Agency  
202-564-6012

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**From:** Fogarty, Johnpc  
**Sent:** Monday, April 29, 2019 10:54 AM  
**To:** Makepeace, Caroline <Makepeace.Caroline@epa.gov>  
**Subject:** Re: SEP meeting with DOJ

## Ex. 5 AC/DP

Sent from my iPhone

On Apr 29, 2019, at 10:40 AM, Makepeace, Caroline <Makepeace.Caroline@epa.gov> wrote:

## Ex. 5 AC/DP

Caroline Makepeace  
Senior Counsel  
Crosscutting Policy Staff  
Office of Civil Enforcement  
US Environmental Protection Agency  
202-564-6012

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---

**From:** Fogarty, Johnpc  
**Sent:** Monday, April 29, 2019 9:29 AM  
**To:** Makepeace, Caroline <Makepeace.Caroline@epa.gov>  
**Cc:** Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>  
**Subject:** RE: SEP meeting with DOJ

Ugh - sorry to hear about that! Revised draft attached - I almost got to the end on an initial run-through.

---

**From:** Makepeace, Caroline  
**Sent:** Monday, April 29, 2019 8:29 AM  
**To:** Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>  
**Cc:** Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>  
**Subject:** Re: SEP meeting with DOJ

Perfect! Was going to say suggest you go ahead, since I'm still getting a

## Ex. 6 Personal Privacy (PP)

Sent from my iPhone



On Apr 29, 2019, at 8:18 AM, Fogarty, Johnpc  
<[Fogarty.Johnpc@epa.gov](mailto:Fogarty.Johnpc@epa.gov)> wrote:

## Ex. 5 AC/DP

Caroline, I'll take a first cut and then hand it to you by 9 am.

---

**From:** Kelley, Rosemarie  
**Sent:** Sunday, April 28, 2019 8:24 PM  
**To:** Fogarty, Johnpc <[Fogarty.Johnpc@epa.gov](mailto:Fogarty.Johnpc@epa.gov)>;  
Makepeace, Caroline <[Makepeace.Caroline@epa.gov](mailto:Makepeace.Caroline@epa.gov)>  
**Cc:** Porter, Amy <[Porter.Amy@epa.gov](mailto:Porter.Amy@epa.gov)>; Koslow, Karin  
<[Koslow.Karin@epa.gov](mailto:Koslow.Karin@epa.gov)>  
**Subject:** Fw: SEP meeting with DOJ

John, Caroline --

This paper needs your review/revisions. The language needs to be tightened up.

Rosemarie

---

**From:** Starfield, Lawrence  
**Sent:** Sunday, April 28, 2019 6:38 PM  
**To:** Bodine, Susan  
**Cc:** Kelley, Rosemarie; Fogarty, Johnpc; Makepeace, Caroline  
**Subject:** SEP meeting with DOJ

Susan,

## Ex. 5 AC/DP

For your consideration.

Larry

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

Message

---

**From:** Makepeace, Caroline [Makepeace.Caroline@epa.gov]  
**Sent:** 4/29/2019 2:47:06 PM  
**To:** Fogarty, Johnpc [Fogarty.Johnpc@epa.gov]  
**Subject:** RE: SEP meeting with DOJ

Thanks!

Caroline Makepeace  
Senior Counsel  
Crosscutting Policy Staff  
Office of Civil Enforcement  
US Environmental Protection Agency  
202-564-6012

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---

**From:** Fogarty, Johnpc  
**Sent:** Monday, April 29, 2019 10:46 AM  
**To:** Makepeace, Caroline <Makepeace.Caroline@epa.gov>  
**Subject:** Re: SEP meeting with DOJ

Pinged them to stay on top of the email traffic to make sure nothing lags.

Sent from my iPhone

On Apr 29, 2019, at 10:11 AM, Makepeace, Caroline <Makepeace.Caroline@epa.gov> wrote:

Sent those two and one more follow up. Gathered examples into one word doc

Sent from my iPhone

On Apr 29, 2019, at 9:43 AM, Makepeace, Caroline <Makepeace.Caroline@epa.gov> wrote:

On it.

Caroline Makepeace  
Senior Counsel  
Crosscutting Policy Staff  
Office of Civil Enforcement  
US Environmental Protection Agency  
202-564-6012

This may contain enforcement confidential or privileged material. Do not release without appropriate review. If you have received this message in error, please inform the sender, and promptly delete.

---

**From:** Fogarty, Johnpc  
**Sent:** Monday, April 29, 2019 9:42 AM  
**To:** Makepeace, Caroline <Makepeace.Caroline@epa.gov>  
**Cc:** Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Porter, Amy

<Porter.Amy@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>

**Subject:** RE: SEP meeting with DOJ

You should send that as a reply all to Chrisna's email and I will mention it to Mark and Joe at the meeting once you do.

---

**From:** Makepeace, Caroline

**Sent:** Monday, April 29, 2019 9:35 AM

**To:** Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>

**Cc:** Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>

**Subject:** Re: SEP meeting with DOJ

## Ex. 5 AC/AWP/DP, Ex. 7(a)

Sent from my iPhone

On Apr 29, 2019, at 9:28 AM, Fogarty, Johnpc <Fogarty.Johnpc@epa.gov> wrote:

Ugh - sorry to hear about that! Revised draft attached - I almost got to the end on an initial run-through.

---

**From:** Makepeace, Caroline

**Sent:** Monday, April 29, 2019 8:29 AM

**To:** Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>

**Cc:** Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>

**Subject:** Re: SEP meeting with DOJ

Perfect! Was going to say suggest you go ahead, since I'm still getting a

## Ex. 6 Personal Privacy (PP)

Sent from my iPhone

On Apr 29, 2019, at 8:18 AM, Fogarty, Johnpc <Fogarty.Johnpc@epa.gov> wrote:

## Ex. 5 AC/DP

Caroline, I'll take a first cut and then hand it to you by 9 am.

---

**From:** Kelley, Rosemarie  
**Sent:** Sunday, April 28, 2019 8:24 PM  
**To:** Fogarty, Johnpc <[Fogarty.Johnpc@epa.gov](mailto:Fogarty.Johnpc@epa.gov)>;  
Makepeace, Caroline <[Makepeace.Caroline@epa.gov](mailto:Makepeace.Caroline@epa.gov)>  
**Cc:** Porter, Amy <[Porter.Amy@epa.gov](mailto:Porter.Amy@epa.gov)>; Koslow, Karin  
<[Koslow.Karin@epa.gov](mailto:Koslow.Karin@epa.gov)>  
**Subject:** Fw: SEP meeting with DOJ

John, Caroline --

This paper needs your review/revisions. The language needs to be tightened up.

Rosemarie

---

**From:** Starfield, Lawrence  
**Sent:** Sunday, April 28, 2019 6:38 PM  
**To:** Bodine, Susan  
**Cc:** Kelley, Rosemarie; Fogarty, Johnpc; Makepeace, Caroline  
**Subject:** SEP meeting with DOJ

Susan,

# Ex. 5 AC/DP

For your consideration.

Larry

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

## **Ex. 5 AC/DP**

Message

---

**From:** Sullivan, Greg [Sullivan.Greg@epa.gov]  
**Sent:** 4/25/2019 9:36:32 PM  
**To:** Fogarty, Johnpc [Fogarty.Johnpc@epa.gov]; Pollins, Mark [Pollins.Mark@epa.gov]; Theis, Joseph [Theis.Joseph@epa.gov]; Denton, Loren [Denton.Loren@epa.gov]; Bahk, Benjamin [Bahk.Benjamin@epa.gov]  
**CC:** Makepeace, Caroline [Makepeace.Caroline@epa.gov]; Kelley, Rosemarie [Kelley.Rosemarie@epa.gov]; Porter, Amy [Porter.Amy@epa.gov]; Buterbaugh, Kristin [Buterbaugh.Kristin@epa.gov]  
**Subject:** RE: WED - followup to today's meeting with Susan re muni cases and SEPs

Looping Kristin on this.

-----Original Message-----

From: Fogarty, Johnpc  
Sent: Thursday, April 25, 2019 5:32 PM  
To: Pollins, Mark <Pollins.Mark@epa.gov>; Theis, Joseph <Theis.Joseph@epa.gov>; Denton, Loren <Denton.Loren@epa.gov>; Bahk, Benjamin <Bahk.Benjamin@epa.gov>  
Cc: Makepeace, Caroline <Makepeace.Caroline@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>; Sullivan, Greg <Sullivan.Greg@epa.gov>  
Subject: WED - followup to today's meeting with Susan re muni cases and SEPs  
Importance: High

Here's what's needed - please send to Caroline with cc to Amy and me:

**Ex. 5 AC/DP**

These need to be pulled together fairly quickly, since Susan's going to be on a call with DOJ Monday afternoon, in advance of the Tuesday meeting. By tomorrow COB is best, but no later than Monday morning (11am), in case there needs to be any followup on what's pulled together.

Thx!

Message

---

**From:** Makepeace, Caroline [Makepeace.Caroline@epa.gov]  
**Sent:** 4/2/2019 1:30:18 PM  
**To:** Fogarty, Johnpc [Fogarty.Johnpc@epa.gov]  
**Subject:** Re: How'd it go

# Ex. 6 Personal Privacy (PP)

Sent from my iPhone

On Apr 2, 2019, at 9:18 AM, Fogarty, Johnpc <Fogarty.Johnpc@epa.gov> wrote:

## Ex. 5 Attorney Client (AC)

<image001.jpg>

## Ex. 5 Attorney Client (AC)

Ex. 6 Personal Privacy (PP)

-----Original Message-----

**From:** Makepeace, Caroline  
**Sent:** Tuesday, April 02, 2019 9:06 AM  
**To:** Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>  
**Subject:** Re: How'd it go

Lay it on me! Ex. 6 Personal Privacy (PP)

Sent from my iPhone

> On Apr 1, 2019, at 6:25 PM, Fogarty, Johnpc <Fogarty.Johnpc@epa.gov> wrote:

>

> Just found out what the sep kerfluffle is all about. You won't believe it.

>

> Sent from my iPhone

>

>> On Apr 1, 2019, at 5:54 PM, Makepeace, Caroline <Makepeace.Caroline@epa.gov> wrote:

>>

>> You. Are. On.

>>

>> Sent from my iPhone

>>

>>> On Apr 1, 2019, at 5:35 PM, Fogarty, Johnpc <Fogarty.Johnpc@epa.gov> wrote:

>>>



## Ex. 6 Personal Privacy (PP)

>>>

>>> -----Original Message-----

>>> From: Makepeace, Caroline

>>> Sent: Monday, April 01, 2019 5:30 PM

>>> To: Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>

>>> Subject: Re: How'd it go

>>>

>>> Getting off bus, to dig in the dirt and put off thinking about whatever psychic meltdown this political are having over SEPs. Hope it's not as bad as it hints.

>>>

>>> Sent from my iPhone

>>>

>>>> On Apr 1, 2019, at 5:01 PM, Makepeace, Caroline <Makepeace.Caroline@epa.gov> wrote:

>>>>

## Ex. 6 Personal Privacy (PP)

>>>>

>>>> Sent from my iPhone

>>>>

>>>>> On Apr 1, 2019, at 4:50 PM, Fogarty, Johnpc <Fogarty.Johnpc@epa.gov> wrote:

>>>>>

>>>>> It went as expected. And you?

>>>>>

>>>>> Sent from my iPhone

>>>>>

>>>>>> On Apr 1, 2019, at 3:53 PM, Makepeace, Caroline <Makepeace.Caroline@epa.gov> wrote:

>>>>>>

>>>>>> With Patrick et al on Friday. No or less than not quite no? ...;)

>>>>>>

>>>>>> Sent from my iPhone

Message

---

**From:** Makepeace, Caroline [Makepeace.Caroline@epa.gov]  
**Sent:** 9/12/2019 3:56:56 PM  
**To:** Fogarty, Johnpc [Fogarty.Johnpc@epa.gov]  
**Subject:** RE: any thoughts welcome

I got versions from WED and from R2, respectively – and tinkered with them.

Caroline Makepeace  
Senior Counsel  
Office of Civil Enforcement  
US Environmental Protection Agency  
202-564-6012

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---

**From:** Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>  
**Sent:** Thursday, September 12, 2019 11:51 AM  
**To:** Makepeace, Caroline <Makepeace.Caroline@epa.gov>  
**Subject:** RE: any thoughts welcome

Ddid you do the case summaries or was it the region?

---

**From:** Makepeace, Caroline <Makepeace.Caroline@epa.gov>  
**Sent:** Thursday, September 12, 2019 11:24 AM  
**To:** Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>  
**Subject:** any thoughts welcome

**Ex. 5 AC/AWP/DP, Ex. 7(a)**

Caroline Makepeace  
Senior Counsel  
Office of Civil Enforcement  
US Environmental Protection Agency  
202-564-6012

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Message

---

**From:** Makepeace, Caroline [Makepeace.Caroline@epa.gov]  
**Sent:** 9/12/2019 3:42:35 PM  
**To:** Fogarty, Johnpc [Fogarty.Johnpc@epa.gov]  
**Subject:** RE: any thoughts welcome

Here's the better (sorta) text for the note

**Ex. 5 AC/AWP/DP, Ex. 7(a)**

Caroline Makepeace  
Senior Counsel  
Office of Civil Enforcement  
US Environmental Protection Agency  
202-564-6012

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---

**From:** Makepeace, Caroline  
**Sent:** Thursday, September 12, 2019 11:24 AM  
**To:** Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>  
**Subject:** any thoughts welcome

**Ex. 5 AC/AWP/DP, Ex. 7(a)**